रजिस्ट्री सं. डी. एल. (एन) 04/0007/2003–05 REGD. NO. D. L. (N) 04/0007/2003—05

भारत का राजपत्र
The Gazette of India

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY
साप्ताहिक
WEEKLY

सं. 37] नई दिल्ली, सितम्बर 8—सितम्बर 14, 2019, शनिवार/भाद्र 17—भाद्र 23, 1941
No. 37] NEW DELHI, SEPTEMBER 8— SEPTEMBER 14, 2019, SATURDAY/BHADRA 17— BHADRA—23, 1941

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं

Statutory Orders and Notifications Issued by the Ministries of the Government of India (Other than the Ministry of Defence)

वित्त मंत्रालय
(व्यय विभाग)

नई दिल्ली, 4 सितम्बर, 2019

का.आ. 1650.—केन्द्रीय सरकार, सरकारी स्थान (अप्राधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए नीचे सारणी के स्तंभ (1) में उल्लिखित अधिकारी को, जो सरकार का एक राजपत्रित अधिकारी है, उक्त अधिनियम के प्रयोजन के लिए संपदा अधिकारी नियुक्त करती है, जो उक्त सारणी के स्तंभ (2) में तत्स्थानी प्रविष्टि में विनिर्दिष्ट सरकारी स्थानों के संबंध में अधिकारिता की स्थानीय सीमाओं के भीतर उक्त अधिनियम द्वारा या उसके अधीन संपदा अधिकारी को प्रदत्त शक्तियों का प्रयोग और उन पर अधिरोपित कर्तव्यों का पालन करेगा।

सारणी

अधिकारी का नाम	सरकारी स्थानों के प्रवर्ग और अधिकारिता की स्थानीय सीमाएं
(1)	(2)
निदेशक या उपनिदेशक (प्रशासन), कार्यालय महानिदेशक, अंतर्राष्ट्रीय पर्यावरणीय लेखापरीक्षा एवं सतत् विकास केंद्र, जयपुर।	महानिदेशक,अंतर्राष्ट्रीय पर्यावरणीय लेखापरीक्षा एवं सतत् विकास केंद्र, जयपुर के प्रशासनिक नियंत्रण के अधीन सरकारी स्थान।

[फा. सं. ए-11013/12/2019-ईजी]

निर्मला देव, उप सचिव

MINISTRY OF FINANCE

(Department of Expenditure)

New Delhi, the 4th September, 2019

S.O. 1650.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints the officer mentioned in column (1) of the Table below, being a Gazetted Officer of the Government, to be the estate officer for the purpose of the said Act, who shall exercise the powers conferred, and perform the duties imposed on estate officer by or under the said Act, within the local limits of the jurisdiction in respect of public premises specified in corresponding entry in column (2) of the said Table.

TABLE

Designation of the Officer	Categories of the public premises and local limits of jurisdiction
(1)	(2)
Director or Deputy Director (Administration), office of the Director General, International Centre For Environment Audit & Sustainable Development, Jaipur.	Public premises under the administrative control of Director General, International Centre For Environment Audit & Sustainable Development, Jaipur.

[F. No. A-11013/12/2019-EG]

NIRMALA DEV, Dy. Secy.

विदेश मंत्रालय

(सी.पी.वी. प्रभाग)

नई दिल्ली, 27 अगस्त, 2019

का.आ. 1651.—राजनयिक और कोंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश ।

एतद् द्वारा, केंद्र सरकार भारत के प्रधान कोंसलावास, दुबई में श्री हरीश बिष्ट, निजी सहायक को दिनांक 27 अगस्त 2019 से सहायक कोंसुलर अधिकारियों के तौर पर कोंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[सं. टी-4330/03/2018]

टी. अजुङ्ग्ला जमीर, निदेशक (सी.पी.वी.)

MINISTRY OF EXTERNAL AFFAIRS

(CPV Division)

New Delhi, the 27th August, 2019

S.O. 1651.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri HARISH BISHT, Personal Assistant as Assistant Consular Officer in Consulate General of India, Dubai to perform the Consular services with effect from 27th August 2019 .

[No. T-4330/03/2018]

T. AJUNGLA JAMIR, Director (CPV)

नई दिल्ली, 27 अगस्त, 2019

का.आ. 1652.—राजनयिक और कोंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश ।

एतद् द्वारा, केंद्र सरकार भारत के उच्चायोग, निकोसिया में श्री तरुण गुप्ता, सहायक अनुभाग अधिकारी को दिनांक 27 अगस्त 2019 से सहायक कोंसुलर अधिकारी के तौर पर कोंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[सं. टी-4330/01/2015]

टी. अजुङ्ग्ला जमीर, निदेशक (सी.पी.वी.)

New Delhi, the 27th August, 2019

S. O. 1652.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri TARUN GUPTA, Assistant Section Officer as Assistant Consular Officer in the High Commission of India, Nicosia to perform the Consular services with effect from 27 August 2019.

[No. T-4330/01/2015]

T. AJUNGLA JAMIR, Director (CPV)

नई दिल्ली, 2 सितम्बर, 2019

का.आ. 1653.—राजनयिक और कोंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश ।

एतद् द्वारा, केंद्र सरकार भारत के प्रधान कोंसलावास, दुबई में श्री शशि सिन्हा, निजी सहायक को दिनांक 02 सितम्बर 2019 से सहायक कोंसुलर अधिकारियों के तौर पर कोंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[सं. टी-4330/03/2018]

टी. अजुङ्ग्ला जमीर, निदेशक (सी.पी.वी.)

New Delhi, the 2nd September, 2019

S.O. 1653.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri SHASHI SINHA, Assistant Section Officer as Assistant Consular Officer in Consulate General of India, Dubai to perform the Consular services with effect from 02 September 2019 .

[No. T-4330/03/2018]

T. AJUNGLA JAMIR, Director (CPV)

पैट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 5 सितम्बर, 2019

का. आ. 1654.—केंद्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 2 के खंड (क) के अनुसरण में, तमिलनाडु राज्य क्षेत्र के भीतर उक्त अधिनियम के अधीन, भारत पेट्रोलियम कार्पोरेशन लिमिटेड (बीपीसीएल) की इरुगुर - देवनगुंथी पाइपलाइन परियोजना के सक्षम प्राधिकारी के कृत्यों का पालन करने के लिए, बीपीसीएल में प्रतिनियुक्ति पर श्री बाशियम टी, (जिलाधिकारी के निजी सहायक (निर्वाचन) तिरुपुर) को प्राधिकृत करती है।

यह अधिसूचना जारी होने की तारीख से लागू होगी।

[फा. सं. आर-11025(15)/6/2018-ओआर-I/ई-27006]

पी. सोमाकुमार, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 5th September, 2019

S.O. 1654.—In pursuance of clause (a) of Section 2 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby authorizes to Mr. Bashyam T (Personal Assistant (Election) to the Collector Tirupur) on deputation to Bharat Petroleum Corp Ltd. (BPCL) to perform the functions of Competent Authority(s) in the State of Tamil Nadu for Bharat Petroleum Corporation Limited's Irugur Devangonthi pipeline project under the said Act.

This notification will be effective from the date of its issue.

[F. No. R-11025(15)/6/2018-OR-I/E-27006]

P. SOMAKUMAR, Under Secy.

नई दिल्ली, 5 सितम्बर, 2019

का. आ. 1655.—केंद्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 2 के खंड (क) के अनुसरण में, तमिलनाडु राज्य क्षेत्र के भीतर उक्त अधिनियम के अधीन, भारत पेट्रोलियम कार्पोरेशन लिमिटेड (बीपीसीएल) की इरुगुर - देवनगुंथी पाइपलाइन परियोजना के सक्षम प्राधिकारी के कृत्यों का पालन करने के लिए, बीपीसीएल में प्रतिनियुक्ति पर सुश्री स. मुत्तरसी (सहायक आयुक्त 2, निषेध और उत्पादक शुल्क विभाग,चेन्नई) को प्राधिकृत करती है।

यह अधिसूचना जारी होने की तारीख से लागू होगी।

[फा. सं. आर-11025(15)/6/2018-ओआर-I/ई-27006]

पी. सोमाकुमार, अवर सचिव

New Delhi, the 5th September, 2019

S.O. 1655.—In pursuance of clause (a) of Section 2 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby authorizes to Mrs. S Mutharasi (Asst. Commissioner-2 Prohibition and Excise Dept. Chennai) on deputation to Bharat Petroleum Corp Ltd. (BPCL) to perform the functions of Competent Authority(s) in the State of Tamil Nadu for Bharat Petroleum Corporation Limited's Irugur Devangonthi pipeline project under the said Act.

This notification will be effective from the date of its issue.

[F. No. R-11025(15)/6/2018-OR-I/E-27006]

P. SOMAKUMAR, Under Secy.

शुद्धि – पत्र

नई दिल्ली, 9 सितम्बर, 2019

का. आ. 1656.—केन्द्रीय सरकार, पेट्रोलियम और खनिज पाईप लाईनस (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 कि उप धारा (1) द्वारा प्रदत शक्तियों का प्रयोग करते हुए, भारत के राजपत्र सं. 51, भाग **II**, खण्ड 3, उपखण्ड (ii), तारीख दिसम्बर 17-दिसम्बर 23, 2017 में पृष्ठ सं. 9785 एवं 9818 पर प्रकाशित भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का. आ. 2861 तारीख 18 – दिसम्बर 2017 तथा भारत के राजपत्र सं. 3, भाग **II**, खण्ड 3, उपखण्ड (ii) तारीख जनवरी 13–जनवरी 19, 2019 में पृष्ठ सं. 400 एवं 401 पर प्रकाशित भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का. आ. 104 तारीख 10 जनवरी, 2019 में निम्नलिखित संशोधन करती है, अर्थात् :-

अनुसूची

जिला- लक्खीसराय			राज्य : बिहार		
के स्थान पर			पढ़ा जाये		
मौज़ा/ग्राम	अंचल	जिला	मौज़ा/ग्राम	अंचल	जिला
परसामां-169	हलसी	लक्खीसराय	परसामां-169	रामगढ़ चक	लक्खीसराय

[फा. सं. आर-11025(11)/1/2019-ओआर-I/ई-28108]

पी. सोमाकुमार, अवर सचिव

ERRATUM

New Delhi, the 9th September, 2019

S. O. 1656.—In exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Petroleum and Natural Gas, number S.O. 2861 dated 18 December 2017, published at pages 9785 and 9818 in Part II, Section 3, Sub-Section (ii) of the Gazette of India No. 51 dated December, 17 - December 23, 2017 and S.O. 104 dated 10 January, 2019, published at pages 400 and 401 and in Part II, Section 3, Sub-Section (ii) of the Gazette of India No. 3, dated January 13 - January 19, 2019, namely:-

SCHEDULE

District : Lakhisarai			**State : Bihar**		
For			**Read**		
Name of Mouza	**Anchal**	**District**	**Name of Mouza**	**Anchal**	**District**
Parsaman-169	Halsi	Lakhisarai	Parsaman-169	Ramgarh Chak	Lakhisarai

[F. No. R-11025(11)/1/2019-OR-I/E-28108]

P. SOMAKUMAR, Under Secy.

शुद्धि – पत्र

नई दिल्ली, 9 सितम्बर, 2019

का. आ. 1657.—केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइप लाईनस (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 कि उप धारा (1) द्वारा प्रदत शक्तियों का प्रयोग करते हुए, भारत के राजपत्र सं॰ 51, भाग ॥, खण्ड 3, उपखण्ड (**ii**), तारीख दिसम्बर 17-दिसम्बर 23, 2017 में पृष्ठ सं. 9754 (अँग्रेजी संस्करण में) पर प्रकाशित भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का. आ. 2860 तारीख 18 दिसम्बर 2017 तथा भारत के राजपत्र सं. 3, भाग ॥, खण्ड 3, उपखण्ड (ii) तारीख जनवरी 13–जनवरी 19, 2019 में पृष्ठ सं. 402 (अँग्रेजी संस्करण में) पर प्रकाशित भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का. आ. 105 तारीख 10 जनवरी, 2019 में निम्नलिखित संशोधन करती है, अर्थात् :-

अनुसूची

जिला- जमुई						**राज्य : बिहार**					
के स्थान पर						**पढ़ा जाये**					
मौज़ा/ग्राम	**अंचल**	**सर्वे / प्लाट नम्बर**	**क्षेत्रफल**			**मौज़ा/ग्राम**	**अंचल**	**सर्वे / प्लाट नम्बर**	**क्षेत्रफल**		
			हेक्टेयर	**एयर**	**वर्ग मीटर**		**हेक्टेयर**		**हेक्टेयर**	**एयर**	**वर्ग मीटर**
महेसरी–22/9 (टोला-मनरवाटाँड़)	सोनो	2	00	20	85	महेसरी – 22/8 (टोला-बिहरघाट)	सोनो	2	00	20	85
		1	00	01	16			1	00	01	16

[फा. सं. आर-11025(11)/1/2019-ओआर-I/ई-28108]

पी. सोमाकुमार, अवर सचिव

ERRATUM

New Delhi, the 9th September, 2019

S. O. 1657.—In exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Petroleum and Natural Gas, number S.O. 2860 dated 18 December 2017, published at page 9754 (in English version) in part II, Section 3, Sub-Section (ii) of the Gazette of India No. 51 dated December 17 - December 23, 2017 and S.O. 105 dated 10 January 2019, published at page 402 (in English version) in part II, Section 3, Sub-Section (ii) of the Gazette of India No. 3, dated January 13 - January 19, 2019 namely:-

SCHEDULE

District : Jamui						State : Bihar					
For						Read					
Name of Mouza	Anchal	Survey / Plot No.	Area			Name of Mouza	Anchal	Survey / Plot No.	Area		
			Hectare	Are	Square Metre				Hectare	Are	Square Metre
Mahesri–22/9 (Tola-Manrwatanr)	Sono	2	00	20	85	Mahesri–22/8 (Tola-Biharghat)	Sono	2	00	20	85
		1	00	01	16			1	00	01	16

[F. No. R-11025(11)/1/2019-OR-I/E-28108]

P. SOMAKUMAR, Under Secy.

अंतरिक्ष विभाग

बेंगलूर, 4 सितम्बर, 2019

का.आ. 1658.—केंद्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में एतद्द्वारा अंतरिक्ष विभाग के निम्नलिखित कार्यालय, जिसके 80 प्रतिशत से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

सेमी-कंडक्टर लेबोरेटरी,
अंतरिक्ष विभाग, भारत सरकार,
सेक्टर-72, साहिबजादा अजीत सिंह नगर,
(चंडीगढ़ के समीप),
मोहाली (पंजाब) – 160071

[सं. 8/1/10/2011-हिं.]

के. वी. रमणा बाबू, अवर सचिव

DEPARTMENT OF SPACE

Bangalore, the 4th September, 2019

S.O. 1658.—In pursuance of Sub-rule (4) of the Rule 10 of the Official Language (use for official purpose of the Union) Rule, 1976, the Central Government, hereby notifies the following Office of the Department of Space, whereof more than 80 percent staff have acquired the working knowledge of Hindi.

Semi-Conductor Laboratory,
Department of Space, Government of India,
Sector-72, Sahibjada Ajit Singh Nagar,
(Near to Chandigarh),
Mohali (Punjab) – 160071

[No. 8/1/10/2011-H.]

K. V. RAMANA BABU, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 30 अगस्त, 2019

का.आ. 1659.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स महाप्रबंधक, भारत सरकार मिंट, नोएडा, नोएडा (यू.पी.) और अन्य एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, नई दिल्ली-2 के पंचाट (संदर्भ संख्या 23/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 09.08.2019 को प्राप्त हुए थे।

[सं. एल-13011/04/2013-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 30th August, 2019

S.O. 1659.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 23/2014) of the Central Government Industrial Tribunal-cum-Labour Court, New Delhi -2 as shown in the Annexure, in the Industrial dispute between the employers in relation toThe General Manager, India Govt. Mint, Noida, NOIDA (U.P.) & Others, and their workmen which were received by the Central Government on 09.08.2019.

[No. L-13011/04/2013-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

Present: Smt. Pranita Mohanty, Presiding Officer, C.G.I.T.-Cum-Labour Court-II, New Delhi

INDUSTRIAL DISPUTE CASE NO. 23/2014

Date of Passing Award- 29th July, 2019

Between:

General Secretary,
Noida Mint Shrmik Sangh (Regd.)
D-2, Sector-1, P.O-78,
Dist- G.B. Nagar,
NOIDA (U.P.)- 201301 … Workman

Versus

The General Manager,
India Govt. Mint, Noida,
D-2, Sector-1, G.B. Nagar,
NOIDA (U.P.) …Management

Appearances:-

Shri S.S. Shorang, (A/R) …For the Workman

Shri J.P. Sharma, (A/R) …For the Management

AWARD

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management India Govt. Mint Noida, and its workman/claimant herein, under clause (d) of sub section (1)and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L- 13011/04/2013 (IR(DU) dated 03.03.2014 to this tribunal for adjudication to the following effect.

> "Whether the action of management of Noida, Mint Noida through its General Manager for implementing the new medical schemes from 01.05.2013 by replacing the old scheme as per the settlement dated 15.09.2008 for the employees of Noida Mint, Noida is fair and just. If not to what relief the claimant union is entitled to and from which date."

The claimants have stated that pursuant to the decisions taken by the Government of India to corporatize the units working under the department of Economic Affairs, 9 units including India Government Mint Noida came under the newly formed company incorporated under the companies Act having name "Security Printing Minting Corporation of India Limited"(SPMCIL) w.e.f. 13.01.2006. With an intention of safeguarding the interest of the employees those previously working under the Government of India were relocated to the corporation, with the approval of the competent authority. Several meetings were held in the Ministry of Finance between the union representatives and the representatives of the units of the corporation. A proposal was approved in the meeting for drafting of a tripartite agreement by the core group comprising the representative of the government, management of the company SPMCIL and the representatives of the recognized and the registered union functioning in the units of the SPMCIL. It was also agreed that the final draft of the tripartite agreement would be registered with the labour law authorities on mutual understanding of the parties to the agreement. Accordingly a core committee was constituted which held series of meetings, wherein different issues including the provision of a medical policy for the employees were discussed. A memorandum of settlement was prepared in terms of section 12(3) of the ID Act and presented before the Chief Labour Commissioner.

The Noida Mint is having approximately 238 workers and the same is an industry coming under the definition provided under section 2(j) of the ID Act. The claimant union is a trade union operating in Noida Mint engaged in the well being of the employees as its members. As per the clause 15 of the memorandum of settlement the corporation was required to formulate a medical benefit scheme for its employees which shall not be inferior to the CGHS facilities available to the central government employees. It was also decided that the employees contribution shall not exceed the rate of contribution prescribed for CGHS beneficiaries and the pensioners including pro-rata pensioners would be the beneficiaries under the scheme. The government also decided that CGHS facility shall be extended to the employees of SPMCIL until a separate medical benefit scheme is notified.

Ultimately the company SPMCIL came up with the medical policy 2013 which was made effective from 01.05.2013 as per their notification dated 23.04.2013. On going through the said medical policy, the claimant union came to know that the said policy is much inferior to CGHS and in contravention to article-15 of memorandum of settlement. The new policy has no provision for availing alternative therapy of treatment, few hospitals were impaneled as per the whims of the management, no provision for better facilities proportionate to increase in salary etc have been provided. The policy also prescribes for reduction of amenities after retirement of the employees. Not only that there was a ceiling for reimbursement of expenses on OPD treatment. The hospital accommodation facilities under the scheme were found much inferior to the facilities compared to CGHS. Though in the policy there is a provision for payment of contribution of lumpsum amount of 120 months in the line of CGHS the medical facilities is not at par with CGHS. Whereas CGHS provides medical facilities in every corner of India the medical policy brought by the company is not available beyond the city where the Units are situated.

Thus, after proper espousal an Industrial Dispute was raised by the claimant union before the Regional Labour Commissioner Dehradun on 25.05.2013. The management company participated but did not accede to the demand of the union for bringing in changes to the policy. The conciliation since failed a report to that effect was submitted to the Appropriate Government who referred the matter for adjudication to this tribunal.

Being noticed the management company appeared and filed Written Statement. It took a stand that the management of SPMCIL had organized meetings of apex by bipartite forum between the management and the employees representatives to discuss and resolve various issues and policy matters including SPMCIL medical policy. After much deliberation SPMCIL medical policy 2013 was prepared and notified. The claimant union without going through the details of the scheme has alleged about the disparity in the scheme with reference to the CGHS. While refutting the allegations of the claimant union the management submitted that the medical policy was notified on 23.04.2013 and soon thereafter a clarification was issued vide notification dated 15.01.2014 to the effect that it covers the medical treatment through alternative system also and the employees have the option to avail the same. Though the employees of different units under SPMCIL are not very large in number, the policy has empanelled good number of hospitals. The Noida Mint has only 273 employees and as against that 27 hospitals in Noida, Ghaziabad and Delhi have been empanelled for the

facility to be availed by the employees. It has also been pleaded by the management that as per the basic pay and Pay levels recommended by the 6th CPC entitlements have been crystallized. This practice is also prevalent in the PSUs. So far as the ceiling of reimbursement of OPD treatment expenses are concerned the management has stated that following the CGHS medical policy, this ceiling is applicable in case of treatment through AMA or AMA empanelled hospitals with a view to put a check on the misuse and inflated bills. The accommodation in the Hospitals is available on the basis of the pay levels and never contravenes the agreement of the bipartite settlement. So far as the retired employees are concerned the management has stated that the facilities of the SPMCIL health policy are equally extendable to them. With these assertions the management has prayed for dismissal of the claim as baseless.

The claimant/union filed replication stating therein that the SPMCIL medical policy was notified on 23.04.2013 and made effective from 01.05.2013. When discontent among the employees surfaced the management came up with another notification extending alternative treatment facilities which is a misleading fact. No treatment facility in alternative system like Ayurveda, Unani etc have been made available to the employees. Nor any such hospital is available for such therapy. The workman also objected that all the 27 hospitals empanelled for the government of India Mint Noida are located in the vicinity of Noida whereas the employees are residing in different areas of Delhi, Ghaziabad, Meerut, Sahibabad, Lajpat Nagar, Dsana, etc. The families of the employees living in those areas have to travel more than 15 Kilometers to avail the facilities of the empanelled Hospitals. No specialized hospitals have been empanelled to provide specialized treatment for diseases like cancer, thyroid, neurology, psychiatric etc. In this regard the medical scheme of SPMCIL is much inferior to CGHS. It has also been objected that the ceiling for OPD treatment is harassing and opposed to the policy of CGHS. While drawing an analogy on the medical policy under the CGHS and SPMCIL the claimant/union has stated that the entire policy goes contrary to artice-15 of the memorandum of settlement dated 15.09.2008 in as much as rate of contribution is concerned.

On this rival pleading the following issues were framed for adjudication.

ISSUES

1. Whether the action of the management of Govt. India Mint Noida, through its General Manager implementing the new medical schemes from 01.05.2013 by replacing the old scheme as per settlement dated 15.09.2008 for the employees of Noida Mint, Noida is fair and just. If so its effects?

2. To what relief the workman is entitled to and from which date?

On behalf of the claimant Union the General Secretary of the Union testified as WW1 and proved the documents in a series of Exhibit WW1/1 to WW1/3 these documents include the memorandum of settlement dated 15.09.2008, the disputed medical policy of SPMCIL etc. Similarly on behalf of the management the Deputy Manager HR India Government Mint Noida testified as MW2 and also produced the documents which have been marked in a series of MW1/1 to MW1/6 and the documents include the SPMCIL health scheme, the notification directing inclusion of pro-rata optees, combined optees alongwith the company appointed employees as beneficiaries of the scheme, the notification relating to provisions of alternative medicines under the scheme, and another notification clarifying the doubts on the disputes raised by the Union relating to disparity between CGHS and SPMCIL. Alongwith this a list has bee furnished showing the names of the hospitals empanelled for IPD and OPD facilities for the beneficiaries.

The Ld. A/R for the workman argued that the management has discriminated the employees of the Government Mint Noida with that of all categories of employees working under central government departments. He also argued that at the beginning vivid discussions were made regarding the health scheme between the representatives of the employees union and the officials of the management. The decision so arrived were contained in a memorandum of settlement. But the management while preparing the scheme made a departure from the agreed terms which are prejudicial to the interest of the employees. In reply the Ld. A/R for the management pointed out to the different provision of both the scheme and also submitted that the management being fully aware of the objections raised by the Union issued a clarification vide MW1/5 and this is a comparison table of both the schemes. He thereby argued that the argument of the workman is baseless.

The memorandum of settlement arrived between the parties has been filed and relied upon by both the parties. This Memorandum at clause 15 shows that in a meeting held between the Joint Secretary department of economic affairs and other officials in one side and the representative of recognized union on the other side had agreed for formulation of a medical benefit scheme which shall not be inferior to the CGHS and the contribution shall not exceed the contribution payable under CGHS. Both parties have accepted this document. Thus, in view of the reference received it is now to be adjudicated if the SPMCIL launched scheme is at par with the CGHS or inferior thereto.

On behalf of the claimants it has been pointed out that the scheme launched by the management suffers from many disparities. He pin pointed his statement to say that the numbers of hospital included under the new scheme are located in an around Noida and families of the employees staying outside Delhi have no access to these hospitals. In

reply the witness of the management examined as a MW1 by refereeing to a document marked as MW1/6 submitted that the 15 hospitals included by notification dated 17.04.2017 are at New Delhi, Ghaziabad, Meerut, Noida etc. While meeting the argument of the claimants that no super specialist hospitals have been included in the list he submitted that these hospitals include heart institute and max super specialist hospital etc. Thus, the objection of the claimant that the scheme is opposed to CGHS appears unfounded. The list of hospitals includes super specialist hospital and spread over Delhi and surrounding areas. It cannot be held that unlike CGHS it has no empanelled hospitals all over India since the authorities have taken care of empanelling the hospitals in the vicinity of the unit of SPMCIL.

The other objection taken by the claimants is that unlike the CGHS there is no provision for availing alternate medicines facilities like Ayuerved, homeopathy, Unani etc. On behalf of the management a document has been placed on record and marked as WW1/4. This is a notification dated 15.01.2014i.e. prior to the reference made by the Appropriate Government on 03.03.2014 regarding the facility of alternate method of treatment. The witness examined on behalf of the workman though stated that the empanelled hospitals are not providing the facilities the same is a question of fact to be proved and cannot be adjudicated in terms of the reference. Hence it is held that there is no disparity between the health scheme of SPMCIL and CGHS in this regard. On behalf of the management two other documents have been filed as MW1/3 which contains the important steps taken by the management for implementation of SPMCIL medical policy 2013 and WW1/5 a comparative table prepared to clarify the multiple issues over the implementation of SPMCIL medical policy 2013. A careful perusal of this document MW1/5 removes all the doubts relating to the disparity between CGHS and SPMCIL health scheme 2013 with regard to the entitlement proportionate to the pay scale, reimbursement of expenditure for OPD treatment, specialized treatment entitlement of hospital stay etc. Not only that this document MW1/5 also indicates some extra benefits allowed to the employees which are not provided under CGHS. One example is availing the medical facility during tour, whether or not empanelled hospital is available or not.

Hence, on hearing the argument advanced by both the parties and on perusal of the documents relied upon by both the parties it is held that the new medical scheme implemented with effect from 01.5.2013 by SPMCIL replacing the old scheme to the employees of Noida Mint is fair and the workmen are not entitled to any relief as claimed by them. It is also held that the health scheme 2013 of SPMCIL is no way inferior to the CGHS. Hence, ordered.

ORDER

The reference be and the same is accordingly answered in against the workman. Send a copy of this award to the Appropriate Government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & Corrected by me.

29th July, 2019

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 30 अगस्त, 2019

का.आ. 1660.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स महानिदेशक, सीपीडब्ल्यूडी, भवन, दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, नई दिल्ली-2 के पंचाट (संदर्भ संख्या 85/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 09.08.2019 को प्राप्त हुए थे।

[सं. एल-42011/72/2011-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 30th August, 2019

S.O. 1660.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 85/2012) of the Central Government Industrial Tribunal-cum-Labour Court, New Delhi -2 as shown in the Annexure, in the Industrial dispute between the employers in relation toThe Director General, CPWD, Nirman Bhawan, Delhi & Others, and their workmen which were received by the Central Government on 09.08.2019.

[No. L-42011/72/2011-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

Present: Smt. Pranita Mohanty, Presiding Officer, C.G.I.T.-Cum-Labour Court-II, New Delhi

INDUSTRIAL DISPUTE CASE NO. 85/2012

Date of Passing Award- 25th July, 2019

Between:

Shri Matadin Sharma,
All India CPWD (MRM)
Karamchari Sangathan, CPWD,
20 Subhash Road, Dehradun -248001 … Workman

Versus

1. The Executive Engineer, (E)
CPWD,
Sanjay Place,
Agra (U.P.)- 282002.

2. The Director General,
CPWD,
Nirman Bhawan,
Delhi- 110001 …Managements

Appearances:-

Shri Satish Sharma, (A/R) …For the Workman

Shri Atul Bhardwaj, (A/R) …For the Management

AWARD

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of CPWD, and its workman/claimant herein, under clause (d) of sub section (1)and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L- 42011/72/2011 (IR(DU) dated 02.02.2012 to this tribunal for adjudication to the following effect.

> "Whether the action of the management of CPWD (i) imposing penalty of stoppage of increments vide order No. 7(6) 89LCED/1824 dated 19/08/1989 on Shri Matadin Sharma, Khalasi (ii) in not granting in-situ promotion w.e.f. 01/04/1993 and ACP on completion of 12/24 years to him and (iii) in denying the compassionate appointment to Shri Sanjay Upadhyay son of the deceased workman is legal and justified? What relief the family of the deceased workman is entitled to?''

As per the claim statement filed on behalf of the claimant through. All India CPWD (MRM) karamchari Sangathan the deceased workman Matadin was working as a Khalasi in CPWD w.e.f. 21.05.1965. While in service he died on 14.09.2005. The family and the dependents of the deceased workman made representation for compassionate appointment of his son in the place of Matadin and for sanction of family pension. The management rejected the prayer for compassionate appointment and sanctioned the family pension. The amount determined as pension for the family was

not proper since the appropriate pay scale was not allowed to the workman prior to his death. On behalf of the claimant it has been stated that from 12.02.1976 to 06.04.1978 and again from 06.03.1981 to 22.07.1982 he was placed under suspension and on 22.07.1982 he was removed from service on account of his conviction in a criminal case by the trial court. The judgment of conviction was challenged by the workman in the higher forum and the Hon'ble High Court by judgment dated 20.12.1984 set aside the said judgment of conviction. Pursuant thereto the workman approached the management and he was reinstated to service on 21.11.1986. The management in a mood to take revenge started one domestic inquiry and after the inquiry imposed a punishment withholding his next annual increment.

The further contention of the workman is that when he was reinstated to service on 21.11.86 pursuant to the order of acquittal, his pay was fixed at the base level i.e. at Rs. 750/- though he was entitled to the annual salary hike of the said year and the next year. Not only that the claimant had qualified in the departmental trade test in the year 1975 but no financial up gradation was allowed to him thereafter. Thus, on the basis of this averment, on behalf of the workman it has been pleaded that he was made a victim of unfair labour practice by the management. The prayer of the workman in the claim petition is that the pay of deceased workman be fixed at the appropriate level for determination of the lawful family pension amount. He should be given the benefit of in-situ promotion and ACP etc w.e.f 1975 and his son Sanjay Upadhay be given appointment in the management CPWD on compassionate ground.

Being noticed the management CPWD appeared and filed WS refutting the stand of the workman. It has been specifically pleaded that the deceased workman was an indisciplined employee and in the habit of misbehaving his seniors under the influence of alcohol. On such an allegation a domestic inquiry was conducted and he was found guilty. As a mode of punishment one annual increment was directed to be stopped. After the death of the workman his family was allowed family pension proportionate to his salary and the workman was not entitled to in-situ promotion or ACP as claimed by him. It is the further stand of the management that the application for compassionate appointment of the son of the deceased workman was considered by the management but it was found that there was no vacancy in the 5% quota of the total cadre strength kept identified for compassionate appointment. A letter to that effect was communicated to the son of the workman.

The other stand of the management is that the deceased workman Matadin had earlier filed an Industrial Dispute before the CGIT Lucknow which was registered as ID No. 85/2002. In that proceeding the industrial adjudicator refused to grant the relief like in-situ promotion as claimed by him and returned a finding to the effect that the candidature of the workman Matadin for promotion was considered twice in the year 1975 and in the year 1988. But on both the occasion, he was found unfit for in-situ promotion to the next higher grade i.e. Assistant Operator. The industrial adjudicator also came to hold that mere passing of the trade test would not make a person entitled to automatic promotion.

The further stand of the management is that the workman remained suspended from 12.02.76 to 06.04.78 and again from 06.03.81 to 22.07.1982. Finally his service was terminated w.e.f. 22.07.1982 and he remained out of duty till the judgment of the acquittal dated 20.12.1984. That judgment was communicated to the management on 04.02.1985 and the workman was taken to service on 21.11.1986. The continuity of service of the workman was badly disturbed and thus on 21.11.1986 he was deemed to have been appointed afresh on the entry level salary.

On this rival pleading following issues were framed for adjudication.

ISSUES

1. Whether enquiry conducted by the bank was just, fair and proper?
2. Whether penalty of stoppage of increments commensurate to the misconduct of the claimant?
3. As in terms of reference.

On behalf of the workman the wife of the deceased workman gave an authority to the General Secretary of the union to testify on her behalf for her ill health. The said General Secretary was examined as WW1. He proved the documents marked in a series of WW1/1 to WW1/2. The said documents include the copy of the application submitted for compassionate appointment and letter of espousal by the union. On behalf of the management the executive engineer of CPWD testified as MW1 and filed documents marked in a series of MW1/1 to MW1/5. These documents include the FIR lodged against the workman, charge against the workman, the award passed by the CGIT lucknow on the Industrial Dispute raised by the workman, the office memorandum prescribing a time limit for entertaining applications for compassionate appointment and the photocopy of the registered post letter sent to the son of the workman which returned with report that the addressee is dead.

At the outset of the argument the Ld. A/R for the management submitted that the dispute raised in this proceeding regarding the pay scale and in-situ promotion, ACP etc by the workman has already been adjudicated and set at rest. To justify the same a copy of the award passed by the Presiding Officer CGIT Lucknow in Id No. 85/2002 has been filed and marked as MW1/3. In view of the submission it is now to be examined if the relief as mentioned in the reference by the Appropriate Government can be granted.

POINT No. 1

If the action of the management in not granting in-situ promotion w.e.f 01.04.1993 and ACP on completion of 12/24 years is just and proper.

Before the reference was sent by the Appropriate Government the workman had died. His cause was espoused by the union. The wife or any of the family members of the workman did not come forward to be examined as a witness. The General Secretary of the union examined as WW1 has only deposed about the discrimination caused to the workman without producing any document to prove that the workman was entitled to first or second ACP on completion of 12/24 years of service. There is also no document placed on record to show that the workman had also qualified himself in the departmental trade test before 1975 to make himself eligible for in-situ promotion. On the other hand the management has filed the copy of the award passed by the CGIT Lucknow. In which the reference was about the legality of refusal for promotion despite the passing of the trade test. The presiding officer in his award has clearly held that the passing of trade test alone shall not entitle the workman for promotion when he was found otherwise not suitable. In the award the said presiding officer has also observed that for the involvement of the workman in criminal case there was a disruption in the continuity of the service and he is not entitled to ACP, on completion of 12 years and 24 years of service. That having been adjudicated earlier the present proceeding cannot be held on the same issue for the second time.

POINT NO. 2

If the action of the management in stopping the increment by order dated 19.08.1989 is legal and justified.

On behalf of the workman it has been asserted that the imposition of the penalty was one sided and no proper opportunity of defence was allowed. But from the award marked as exhibit MW1/3 it appears that this aspect was taken into considered during adjudication and the finding was given against the workman. The witness examined on behalf of the workman during cross examination has stated that no departmental appeal was preferred by the workman in this regard. Hence, this tribunal concludes that the finding of the departmental proceeding has attained finality and there is no proceeding pending as per the reference received from the government about the legality and fairness of the domestic inquiry. Hence it is held that no relief in this regard can be granted during this adjudication.

POINT NO. 3

Whether the action of the management in not extending the benefit of compassionate appointment to the son of the deceased workman is just and proper.

Compassionate appointment is a scheme floated by the government to save the families of the government servant from misery on account of the untimely death of their soul bread earner. This provision is subject to fulfillment of certain conditions by the person seeking the benefit and one cannot claim the same as a matter of right. In this proceeding as has been observed in the preceding paragraph neither the wife nor the son of the deceased workman came to the witness box to depose. In the WS the management has taken a plea that the application for compassionate appointment was considered and rejected for non availability of vacancy. A circular to that effect has been filed and marked as exhibit MW1/4. This is an office memorandum issued by the DOPT regulating the compassionate appointment which prescribes that compassionate appointment can be allowed to genuine and deserving cases subject to availability of vacancy in the prescribed proportion for a year which is 5% of the vacancy. The management of this case has filed an order marked as annexure-E which reveals that the Superintending Engineer CPWD had written a letter to Sanjay Upadhay son of the deceased workman Matadin intimating the reasons for refusal of his application for compassionate appointment. The witness examined by the management submitted that the letter issued to Sanjay Upadhay returned with an endorsement that the addressee is dead. No rebuttal evidence has been filed. The postal envelop containing the endorsement has been marked as exhibit MW1/5.

In view of the death of the person claiming compassionate appointment and there being no other application pending by any other claimant it is held that this issue has become infractuous for consideration.

Hence, on consideration of the evidence and materials on record this tribunal comes to a conclusion that the claimant is not entitled to any relief as sought by the claimant as per the reference received from the appropriate government.

ORDER

The reference be and the same is answered accordingly and the claimant is held not entitled to any relief as per the reference. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & Corrected by me.

25th July, 2019

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 30 अगस्त, 2019

का.आ. 1661.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स जनरल मैनेजर, भारत संचार निगम लिमिटेड, करनाल, हरियाणा और अन्य एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चंडीगढ़ के पंचाट (संदर्भ संख्या 278/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 28.08.2019 को प्राप्त हुए थे।

[सं. एल-40012/23/2013-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 30th August, 2019

S.O. 1661.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 278/2013) of the Central Government Industrial Tribunal-cum-Labour Court,Chandigarh as shown in the Annexure, in the Industrial dispute between the employers in relation to The General Manager, Bharat Sanchar Nigam Ltd. Telecom Karnal, Haryana & Others, and their workmen which were received by the Central Government on 28.08.2019.

[No. L-40012/23/2013-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sh. A.K. Singh, Presiding Officer

ID No. 278/2013

Registered on:-28.06.2013

Sh. Bali/ S/o Sh. Omi, Resident of Village Jeet Garh,
Gari Sikanderpur, PO Kaveri, Tehsil & Distt. Panipat. …Workman

Versus

1. Bharat Sanchar Nigam Ltd. through General Manager, Telecom District, Sector 8, Karnal, Haryana.
2. Bharat Sanchar Nigam Ltd. through its SDO, Panipat.
3. Bharat Sanchar ZNigam Ltd. through A.O. Tar Ghar,
   Room No. 3, Panipat. …Respondents

AWARD

Passed on:-05.08.2019

Central Government vide Notification No. L-40012/23/2013-IR(DU) Dated 27.05.2013, under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

"Whether the action of the management of BSNL in terminating the services of the workman Sh. Bali S/o Sh. Omi w.e.f. 23.05.2011 is just, fair and legal? To what relief the workman concerned is entitled to and from which date?"

1. Both the parties were served with notices. The workman/claimant filed his statement of claim with the averment that he was appointed as Peon from April 2007 and was working and performing his duties under the supervision and control of respondent no.3 regarding the receiving of cheques from the customer, collecting the cheques from the cheque box at Tar Ghar, Room No.3, Panipat. The workman/claimant rendered his services as per satisfaction of the management and due to high prices, it became very difficult for the workman to have two times meal for his family members when he requested the management to increase the payment of wages and in spite of enhancing his salary, respondent-management with mala fide intention and ulterior motive terminated the services of the workman illegally against the principle of natural justice and in violation of provisions of Industrial Disputes Act, from 23.05.2011. He was not allowed to resume his duties on 23.05.2011 and representation made by the workman was also of no effect. The management did not issue notice as required under the law and accordingly did not pay the compensation in lieu of one month salary at the time of terminating the services. The workman/claimant worked about 4 years without any break prior to his termination and his services wrongly and illegally were terminated without any enquiry. However, as per Government notification dated 10.12.2004, even the services of the daily wagers should be counted towards pension and their services should be treated as continuous and he was entitled for absorption in regular employment without any break. The claimant/workman has made an application under Industrial Disputes Act before Conciliation Officer, in the office of Assistant Labour Commissioner(Central), Karnal, but the management did not resolve the dispute and has not taken back the claimant/workman in services resulting this reference by the Bharat Sarkar, Ministry of Labour/Shram Mantralaya, Delhi. It is prayed that management kindly be directed to reinstate the workman with full back wages with continuity of service and all consequential benefits as per rules mentioned under the Government notification in the interest of natural justice.

2. Respondents/managements have filed its written statement, alleging therein that the reference is bad according to the provisions of Industrial Disputes Act. The claimant was not engaged by the management on regular basis not any monthly salary/wages was paid to workman/claimant as such, there was no master and servant relationship with the workman. It is further alleged that he might have worked on need basis only as and when required and paid accordingly. The claimant was not the workman of the BSNL as defined under the ID Act. The documents placed before the Assistant Labour Commissioner is manipulated/manufactured documents. The claimant was not appointed or engaged in process of the recruitment in accordance with the relevant rules in an open competitive process against the sanctioned post. Therefore, he has no locus standi to raise the dispute or claim continuance in the service as such, this Tribunal has no right to regularize the service of such an employee in the light of the judgment of ***Uma Devis case***followed by ***State of Rajasthan & Others Vs. Daya Lal & Ors***. The management has stated that workman was never appointed as Peon from April 2007 on cash counter at customer service centre under respondent no.3 to collect the cheques from the customers as such, statement made by the workman in his claim petition is false. It is further alleged that he might have collected the stationery and documents attached but documents filed by claimant are manufactured and procured and its authenticity cannot relied upon unless it is proved. Claimant was not working under the supervision and control of respondent no.3. Workman/claimant was never engaged as casual labour nor paid any monthly wages as such, the question of refusal to his request does not arise. The management has not issued the termination order or retrenchment to the claimant as is alleged hence, question of issuing notice does not arise at all. In view of the position explained, it is prayed that claim of the workman is liable to be dismissed and reference may be answered in negative to the government.

3. Workman has filed its replication/rejoinder, alleging therein that he had been working with the management since April 2007 till 23.05.2011 and drawing his salary from SDO directly. The nature of work of the workman was of permanent nature and time slot was 9 am to 5 pm. As a Peon, he has been rendering all the services like collection of cheques from Model Town Box used to go to GMTD(General Manager Telecom Deptt.) Karnal to bring the goods like printed, carton, bill books, diaries etc. and used to do all the work of Peon. He has completed more than 240 days in each calendar year. Documents filed by the workman are not manipulated, manufactured as is alleged by the management. It is further stated that bill books which are issued by the SDO, an official of BSNL in favour of the workman to collect material from their Karnal Office. Remaining facts alleged in the replication/rejoinder are same which are alleged in the claim statement as such, it does not require to be mentioned again in order to avoid repetition of the facts.

4. In support of his case, workman Bali has submitted his affidavit as Ex.A-1 along with documents Ex.W1 to W22 in the line of the facts alleged in the claim petition. During the course of cross-examination, this witness has accepted that he has neither any document regarding the appointment nor payment of salary given by the management of BSNL. In respect of the documents filed by the workman Ex.W1 to W22 this witness has asserted that these are not forged documents as is suggested by the management-counsel. This witness has categorically stated that photocopies of the documents produced by him are got photocopied at the time when SDO used to sent him for work assigned with original documents itself. This witness has further stated that original documents are with the management and he was appointed by the SDO Mauji Ram in the year 2006. Workman has stated that salary is not paid by Mauji Ram from his pocked. Thus, this witness has tried to prove that photocopies of the documents filed by him as Ex.W1 to W22 in fact got prepared by him when original was provided for the relevant works mentioned in the documents itself.

5. Management has examined Ramphal Singh Hooda, Accounts Officer, Panipat, who has filed his affidavit Ex.MW1 as evidence. During cross-examination, he has accepted that he was working with the management since 1978 and presently holding the post of Accountant, Panipat, BSNL. This witness has further accepted that there was a Taar Ghar of BSNL at Panipat, which has been now closed. This witness has also accepted that record of the claimant is not maintained in the office because he is required for the job as and when required. This witness has also accepted that he is not in a position to say that whether the services of the workman had been availed by the management or not because he was not in the office at that time. This witness further stated that he cannot tell the name of SDOs and employees who worked in the year 2004-2009 at Panipat Office of BSNL. This witness has also accepted that General Manager used to sit at Karnal head office from where materials are secured for the purpose of smooth functioning of the management. Ramphal Singh Hooda has denied the suggestion made by the workman-counsel that he was employed by the management during the relevant period.

6. I have heard the oral arguments as well as written arguments filed by Sh. S.C. Gupta, Ld. Counsel for the workman and Sh. Anish Babbar, Ld. Counsel for the management and perused the file carefully.

7. Learned counsel or the workman has submitted that workman has joined with the management in the month of April 2007 and worked till his retrenchment/termination on 23.05.2011. It is also submitted that workman was performing his duties directly under the management office situated at Taar Ghar Panipat, under the control and supervision of SDO Mouji Ram and performed all the duties assigned and stated in the claim statement. Learned counsel of the workman has vehemently argued that services of the workman was taken in utter violation by adopting unfair labour practice for more than 5 years and he was retrenched/terminated without giving notice or retrenchment compensation. Learned counsel has further contended that there is no specific denial by the management regarding the employment of the workman with the management instead management has alleged that he might have worked on need basis occasionally as and when required and was paid accordingly but nothing is placed on record in the form of documents to show that as and when he was engaged and payment was made to the workman. Learned counsel of the workman has placed reliance of the cases of ***Maharashtra State Road Transport and another Vs. Casteribe Rajya Parivahan Karmchari Sanghatana(2009) 8 SCC 556,Durgapur Casual Workers Union Vs. Food Corporation of India, Civil Appeal No.10856 of 2014 decided on 09.12.2014*** and ***AIIMS New Delhi Vs. Uddal & Others, 2014(142) DRJ 569, decided on 21.04.2014.***

8. Per contra, learned counsel of the management vehemently argued that claimant is neither workman nor appointed by the respondent-management for the work of management as Peon from the month of April 2007. It is also contended that there was no master and servant or employer and employee relationship between the workman and management and as such, respondent-management has no liability towards the workman. Learned counsel of the management has also submitted that workman has utterly failed to submit cogent evidence in order to prove the direct relationship with the respondent-management. Learned counsel argued that the facts alleged in the written statement regarding the workman as he might have worked on need basis occasionally as and when required and was paid accordingly does not denote that he was the employee of the management as is alleged by the workman in his claim petition. It is also submitted that workman has failed to prove by reasonable and conclusive evidence that he was paid Rs.3,000/- as salary by the management. The documents filed by the workman could not be proved by the original documents and it is concocted and fabricated documents which could not be relied by the Tribunal. Learned counsel of the management has placed reliance in the case of ***Bharat Heavy Electricals Ltd. Vs. Mahendra Prasad Jakhmola & Ors., Civil Appeal No.1799-1800 of 2019, decided on 20.02.2019.***

9. There is no dispute about preposition of law that onus to prove that claimant was in the employment of the management is always on the workman/claimant and it is for the workman to adduce evidence to prove factum of his employment with the management. Such evidence may be in form of receipt of salary or wages for 240 days or record of his appointment or engagement for that year to show that he was worked with the employer for 240 days or more in a calendar year. In this regard, reference may be made to **Batala Coop. Sugar Mills Ltv. Vs. Sowaran Singh(2005) 8 Supreme Court cases 481 as well as Director Fisheries Terminated Division Vs. Bhikubhai Meghajibhai Gavda(2012) 1 SCC 47**.

10. So far as the argument regarding the claimant being a workman is concerned. In this regard, reference can be made to the decision of ***Devinder Singh Vs. Municipal Council, Sanaur, AIR 2011 Supreme Court 2532***, wherein, the Hon'ble Apex Court while interpreting the provisions of Section 2(S) of the Act which deals with the definition of "workman" has observed as follows:-

> ***"The source of employment, the quantum of recruitment, the terms & conditions of employment/ contract of service, the quantum of wages/ pay and mode of payment are not at all relevant for deciding whether or not a person is a workman within the meaning of Section 2(s) of the Act. The definition of workman also does not make any distinction between full time and part time employee or a person appointed on contract basis. There is nothing in the plain language of Section 2(s) from which it can be inferred that only person employed on regular basis or a person employed for doing whole time job is a workman and the one employed on temporary, part time or contract basis on fixed wages or as a casual employee or for doing duty for fixed hours is not a workman."***

It is clear from the perusal of aforesaid observations that even if a person is engaged on temporary, part time or contract basis or for doing any other kind of work and is duly paid wages for the said work, in that eventuality such a person would be covered by the definition of "workman" as provided in Section 2(S) of the Act. In these circumstances, it stands proved that there existed relationship of employer-employee between the parties.

11. Admittedly, management has not submitted any document regarding the employment of the workman in the establishment in spite of the fact that it has admitted that workman might have worked on need basis occasionally as and when required and was paid accordingly. Learned counsel of the management has drawn my attention towards the judgment of ***Bharat Heavy Electricals Ltd.(supra),*** in which a similar fact was alleged in the written statement and Hon'ble Supreme Court has observed that if the written statement goes to show that workman might have been engaged as an employee by a particular contractor, plain reading of the written statement could not suggest that employer is not sure as to whether the workman worked or engaged by the employer(Bhel). According to Hon'ble Supreme Court what is clear from the written statement is that employer(Bhel) has denied that workmen were engaged by Bhel or that the workmen were Bhels' workmen. I am of the opinion that argument advanced by the management-counsel is misconceived because the fact of that case was altogether different in which Bhel-management has stated in his written statement that workmen may have been employed by the contractor. There is no such contractor in case in hand hence, whatever is stated in the written statement denotes the defence which is taken by the management itself. Hon'ble Delhi High Court while referring the case of ***Rameshwari Devi Vs. Nirmala Devi, 2011(6), Scale 677***, ***decided by the Hon'ble Supreme Court*** has held in the case of ***AIIMS,New Delhi Vs. Uddal & Others, 2014(142) DRJ 569, decided on 21.04.2014,*** that fundamental principles, essential to the purpose of a pleading is to place before a Court the case of a party with a warranty of truth to bind the party and inform the other party of the case it has to meet. It means that the necessary facts to support a particular cause of action or a defence should be clearly delineated with a clear articulation of the relief sought. It is the duty of a party presenting a pleading to place all material facts and make reference to the material documents, relevant for purposes of fair adjudication, to enable the Court to conveniently adjudicate the matter. The duty of candour approximates uberrima fides when a pleading, duly verified, is presented to a Court. In this context it may be highlighted that deception may arise equally from silence as to a material fact, akin to a direct lies. Thus, it can be safely inferred that management has not put specific defence regarding the employment or non-employment of the workman in its establishment. It is not explained in the written statement or during the course of evidence by the management-witness that on what basis it is stated in the written statement that workman might have worked on need basis occasionally as and when required and paid accordingly. It is a settled position of law that fact has to be specifically admitted or denied in the pleadings of the parties. So, it is required by the management to either admit or denied the assertion of the workman. In fact, claimant if worked on need basis occasionally and was paid accordingly then it has to be specifically stated in the written statement as well as evidence led by the management to prove the relevant date, time and month for need basis employment of the workman.

12. Learned counsel of the management argued that burden lies on the workman to prove that he was employed by the management for relevant period as alleged by him in the claim petition. There is no dispute that initial burden lies with the workman to prove the relationship of employer and employee between the parties. The learned counsel appearing for workman has relied upon the judgment of ***R.M. Yellatti Vs. Asstt. Executive Engineer(2006) 1 SCC 106***. It was noticed that in most of the cases working can only called upon the employer to produce the muster roll or attendance register for the period in question. Letter of appointment proof of payment of wages etc. as no letter of appointment is issued wages could be paid in cash, hence, the workman could have no such record in his possession. The Hon'ble Supreme Court in the case of ***Director Fisheries Terminated Division(supra),*** accepted the statement of the workman that he worked for 240 days prior to the date of termination as sufficient proof.

13. So far as the case in hand is concerned, workman has tried his best to prove the documents filed by him as Ex.W1 to W22 by summoning the witnesses of the management through Court or Tribunal. Witness Atma Ram has stated that the summoned record is not in his possession because the cash-counter of telegraph was transferred to account office,

which is in his charge. He has only cashbook of telegraph for the last 4-5 years and he maintains the record of regular workers from the joining of service. Similarly, witness Surender has stated that the summoned record has been destroyed and is not in his possession. This witness has accepted that materials are supplied after obtaining the signatures on the request letters issued by authorities and the name of person is recorded in the concerned register. This witness has also accepted that he does not know the rules according to which the record is destroyed. Thus, it is very much clear that as an employee of the management he has refused to submit the original documents before the Tribunal on the pretext of its weeding out without any rules and regulations. Hence, this Tribunal is constrained to draw adverse inference against the management according to provisions of 114(g) of the Evidence Act.

14. It is pertinent to mention that nature of documents filed by the workman(though in the form of Photostat copies) Ex.W1 to Ex.W22 are relevant to nail the truth. Ex.W1 to W16 are receipts issued by the concerned SDOs of the respondent-department authorizing the workman to receive the material from the headquarter, Karnal. In these receipts, signatures of workman is also identified by the concerned SDOs of the respondent-department for the year 2006-2007. Similarly, Ex.W17 is the copy of register at the cash-counter of receiving the cash from customers since April 2006 onwards. The documents Ex.W18 to W19 and W22 are photocopies of the stock register of the respondent-department maintained for issuing material to his employees from April 2006 to May 2009 while Ex.W20 is the Photostat copy of register maintained for receiving the cheques from the customers from the year 2007-2010. Ex.W21 is copy of a stock register of the management for issuing different materials to the workman for the period 2006-2008. Claimant/workman has categorically stated that these photocopies were got prepared by him while original documents were given to him for compliance of the duties assigned to him. Thus, it cannot be said that these documents have not come from possession of a person who does not have bona fide position to deal with these documents. Claimant has specifically stated that he was appointed by one Mauji Ram, SDO and worked under him for long time. Learned counsel of the management has contended that these documents could not be read in evidence as it is not proved according to the requirement of the Evidence Act. Undoubtedly, the requirement of Evidence Act in order to prove the secondary evidence is altogether different from the way it has been proved by the workman but further question arises that whether it is possible for the workman to prove these documents if the original documents are not produced by the management before the Tribunal on the pretext that it has been destroyed as is stated by the witness Surender Singh. This Tribunal is of considered view that in the circumstances these documents stands proved as Evidence Act is not strictly applicable in cases related to Industrial Dispute Act, 1947.

15. Moreover, the cases of Industrial Dispute has to be decided on the basis of principle of **preponderance of probability** rather than proof beyond reasonable doubt as is held by the Hon'ble Supreme Court in the cases of ***Union of India Vs. Sardar Bahadur(1974)4 SCC 618, R.S Singh Vs. State of Punjab and other(1999)8 SCC page 90,*** and in the case of ***State Bank of India Vs. Narender Kumar Pandey, Civil Appeal No.263/2013 dated 14.01.2013.*** The workman has not only stated on oath regarding the work assigned to him by the SDOs of the management but also submitted the volume of documents(Photostat copies) pertaining to his duties during the relevant period. I am of the considered opinion that management was in better position to produce at least those documents for the relevant period of the work alleged to be done by the workman to disapprove that these duties have not been performed by the workman instead it is performed by some other person of the management. Similarly, if workman has been employed on need basis from time to time and paid accordingly then the related documents ought to have been submitted and proved in order to belie the version of the claimant regarding his employment with the management from April 2006 to May 2011. It is pertinent to mention that, it is a specific case of the workman that he was engaged initially by the SDO Mauji Ram for the work and there are so many photocopies of the documents which are signed by Mauji Ram SDO. To my mind, Mauji Ram could be the best witness to disprove the version of the claimant/workman but he has not been examined or any other witness who worked during the relevant period at Tar Ghar, Room No.3, Panipat, could not be examined by the management for the reason best known to him. On the basis of these documents, this Tribunal is of the opinion that its relevancy cannot be thrown out due to mere saying of the management that these documents are fabricated and procured documents without any cogent evidence on record. Hence, this Tribunal is of considered opinion that workman has able to prove that there existed relationship of employer and employee between the parties.

16. The vital question arises for consideration is whether termination of the workman from service by the management from 23.05.2011 is in accordance with law or in violation of the provisions of Section 25-F of the Act. According to the testimony of the workman/claimant the work of Peon on which he had worked was of permanent nature and his services were terminated by the management in violation of Section 25-F of the Act. It is neither the case of the management that any notice or compensation in lieu of notice was given to the workman prior to termination of his services from 23.05.2011 nor any such evidence is adduced on record by the management. In these circumstances, this Tribunal has no hesitation to hold that the services of the workman was terminated by the management from 23.05.2011 in violation of Section 25-F of the Act.

17. There is long line of decisions of Hon'ble Apex Court as well as of various High Courts that provisions of Section 25-F of the Act are mandatory in nature and termination of the workman from services in derogation of the provisions of Section 25-F of the Act will render action of the management to be illegal and void under the law. Since there is no

evidence on record that any valid notice was issued by the management to the workman at the time of termination or in lieu of such notice, any compensation was paid to him as such, action of the management in terminating the services of the workman is held to be illegal and void.

18. Now the residual question is whether the workman/claimant is entitled to any incidental relief of payment of back wages and/or reinstatement in service with full back wages. It is proved on record that claimant was continuously in the employment of the management from April 2007 to 23.05.2011 on monthly salary basis. There is no show cause notice or memo issued to the claimant/workman by the management. Learned counsel of the workman contended that workman is entitled for reinstatement and there is no such bar and this Tribunal has got power to reinstate the workman along with back wages while placing reliance in the cases of ***Maharashtra State Road Transport and another Vs. Casteribe Rajya Parivahan Karmchari Sanghatana(2009) 8 SCC 556,*** and ***Ajaypal Singh Vs. Haryana Warehousing Corporation, Civil Appeal No.6327 of 2014, decided on 09.07.2014.*** From the perusal of these judgments, it is very much clear that the fact of the above mentioned cases are altogether different and there is no doubt that this Court has got power for ordering reinstatement of an employee provided the circumstances and facts of the case are of such a nature where Tribunal deems to pass such order. The case put up by the workman in his claim statement reveals that he was appointed by the SDO Mauji Ram and there is nothing on record to prove that he was appointed on a regular vacancy against a sanctioned post and had completed 10 or more years in service as such, the argument advanced by the learned counsel of the workman has no force in the light of the settled position of the case of ***Uma Devi Vs. State of Karnataka.***

19. A Bench of three Judges of the Hon'ble Supreme Court in the case of ***Hindustan Tin Works Private Limited Vs. Employees of Hindustan Tin Works Private Limted(1979) 2 SCC 80,*** held that relief of reinstatement with continuity of service can be granted where termination of service is found to be invalid. It would mean that the employer has taken away illegally the right to work of the workman contrary to the relevant law or in breach of contract and simultaneously deprived the workman of his earnings. If thus the act of employer is found to be totally illegal and arbitrary, in that eventuality the workman is required to be reinstated, with full back wages. Plain common sense also dictates that the removal of an order terminating the services of workmen must ordinarily lead to the reinstatement of the services of the workmen along with payment of back wages.

20. However, Hon'ble Apex Court in the case ***General Manager, Haryana Roadways Vs. Rudan Singh, reported as 2005 SCC (L & S) 716,*** observed as under:-

> "8. There is no rule of thumb that in every case where the Industrial Tribunal gives a finding that the termination of service was in violation of Section 25-F of the Act, entire back wages should be awarded. A host of factors like the manner and method of selection and appointment i.e. whether after proper advertisement of the vacancy or inviting applications from the employment exchange, nature of appointment namely, whether ad hoc, short term, daily wage, temporary or permanent in character, any special qualification required for the job and the like should be weighed and balanced in taking a decision regarding award of back wages. ***One of the important factors which has to be taken into consideration is the length of service, which the workman had rendered with the employer. If the workman has rendered a considerable period of service and his services are wrongfully terminated, he may be awarded full or partial back wages keeping in view the fact that at this age and the qualification possessed by him he may not be in a position to get another employment. However, where the total length of service rendered by a workman is very small, the award of back wages for the complete period i.e. from the date of termination till the date of award, which our experience shows is often quite large, would be wholly inappropriate.*** A regular service of permanent character cannot be compared to short or intermittent daily wage employment though it may be for 240 days in a calander year."

21. The Hon'ble Apex Court in case ***"Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya" reported as (2013) 10 SCC 324*** has held as under:

> "The propositions which can be culled out from the aforementioned judgments are:
>
> ***"i) In case of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule.***
>
> ***ii) Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the Court of first instance that he was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then I has to plead and also lead cogent evidence to prove that the workman wads gainfully employed and was getting wages equal to the wages he wads drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averments about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was not employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments."***

22. The Hon'ble Apex Court also held that different expressions are used for describing the consequence of termination of a workman's service/employment/engagement by way of retrenchment without complying with the mandate of Section 25-F of the Act. Sometimes it has been termed as ab initio void, sometimes as illegal per se, sometime as nullity and sometimes as non est. Leaving aside the legal semantics, we have no hesitation to hold that termination of service of an employee by way of retrenchment without complying with the requirement of giving one month's notice or pay in lieu thereof and compensation in terms of Section 25-F (a) and (b) has the effect of rendering the action of the employer and nullity and the employee is entitled to continue in employment as if his service was not terminated. ***(Anoop Sharma Vs. Executive Engineer, Public Health Division No.1 Panipat (2010) 5 SCC 497).***

23. Having regard to the legal position as discussed above and the facts of the case, this Tribunal is of the firm view that the claimant herein is entitled for the compensation rather than reinstatement into service on the same post. Looking the nature of the salary and years of the workman in the service with the management, it will meet end of justice if compensation of Rs.3,00,000/- is awarded in favour of the workman and in case, this amount is not paid within one month from the date of publication of the award, the workman shall be entitled to the said amount with 6% interest from the date of notification till realisation.

A. K. SINGH, Presiding Officer

नई दिल्ली, 30 अगस्त, 2019

का.आ. 1662.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स जनरल मैनेजर, भारत संचार निगम लिमिटेड, करनाल, हरियाणा और अन्य एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चंडीगढ़ के पंचाट (संदर्भ संख्या 103/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 28.08.2019 को प्राप्त हुए थे।

[सं. एल-40012/94/2014-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 30th August, 2019

S.O. 1662.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 103/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh as shown in the Annexure, in the Industrial dispute between the employers in relation toThe General Manager, Bharat Sanchar Nigam Ltd. Telecom Karnal, Haryana & Others, and their workmen which were received by the Central Government on 28.08.2019.

[No. L-40012/94/2014-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sh. A.K. Singh, Presiding Officer

ID No. 103/2014

Registered on:-02.03.2015

Sh. Balwinder Kumar, S/o Sh. Sagar Chand, R/o VPO Jhinjari,
Tehsil Anandpur Sahib, Distt. Ropar. …Workman

Versus

1. Asstt. Superintendent of Post Offices, Ropar Sub-Division, Ropar
2. Sub-Post Master, Sub-Post Office Kotla, Power House, Distt. Ropar …Management

AWARD

Passed on:-06.08.2019

Central Government vide Notification No. L-40012/94/2014-IR(DU) Dated 29.01.2015, under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

"Whether the action of the management of Post Ofice, Ropar in terminating the services of Sh. Balwinder Kumar S/o Sh. Sagar Chand w.e.f. 04.06.2014 is just, valid and legal? If not, to what benefits the workman is entitled for and what directions are necessary in the matter?"

1. Both the parties were served with notices. The workman/claimant filed his statement of claim with the averment that he was appointed as GDSMD(Gramin Daak Sewak Mail Delivery) on temporary basis for 89 days by the management from 24.02.2009, having qualification of being 10+2 passed and eligible for regular vacant post. Workman remained in service upto 30.09.2002 in pursuance of initial appointment and thereafter giving 3-4 days notional break he was allowed to resume duty w.e.f. 04.10.2009 in pursuance of order dated 03.10.2009 issued by the management. Thereafter, workman remained in service continuously with notional break of 3-4 days without any extension order upto 03.06.2014. It is also alleged that although, workman was continuously working with the management but in January 2012 to March 2012, Sub-Post Master shown the break in paper and salary was prepared in the name of Rajesh Kumar, nephew of the workman only to show the discontinuity and notional break but the salary was paid to the workman as he was performing duties with the management-department for the relevant period. The action of the management showing the discontinuity and notional break for three months in papers is illegal and is in violation of Section 25-T of the ID Act, which amounts unfair labour practice. Similarly, in the month of January, February 2013 also shown break in papers and salary was prepared in the name of Rajesh Kumar, nephew of the workman, who was minor and was not eligible for the job for the period 21.03.2014 to 28.03.2014. He was working with the management but in papers 9 days break was shown by showing the charge given to Kamal, GDSMD(Regular)only to further shows the discontinuity in service of the workman. The workman again worked from 24.03.2014 to 03.06.2014 and his services were ultimately terminated on 04.06.2014 without any order/notice or any retrenchment compensation in violation of Section 25-F of the Industrial Disputes Act, 1947 while the workman had completed more than 240 days of service in each calendar year and he had also completed more than 240 days of service in 12 months prior to the impugned termination. The services of the workman were terminated on 04.06.2014 for the post which was still vacant and was not filled up by any regular incumbent. The impugned termination of the workman on 04.06.2014 is illegal, arbitrary and is in violation of Section 25-F and 25-T of the Industrial Disputes Act, 1947. The workman is unemployed and has not been gainfully employed from the date of termination. It is therefore, prayed that the termination of the services of the workman be set aside being illegal and violative of the provisions of ID Act and management be directed to reinstate the workman along with continuity of service and full back wages in the interest of justice.

2. Management-Superintendent of Post Offices, Chandigarh, have filed written statement, with the averment that workman was engaged as outsider GDS MD(Gramin Dak Sewak) Mail Deliverer on stopgap arrangement w.e.f. 26.02.2009 at Kotla Power House Sub-Post Office for 89 days vide office memo dated 24.02.2009 with the undertaking that he will not claim regularization as his services are purely temporary. He was engaged for performing the duties for 5 hours in a day only. The services of the workman were further engaged for 89 days from 03.10.2009 and further he was engaged for 89 days from 30.12.2009. Similarly, the workman was again engaged for 89 days from 03.06.2014 on need basis. The department initiated the process for taking regular appointment for the said post and the workman was given an opportunity to compete with the other candidates but having only 28.9% marks in the matriculation, he could not be selected against those persons who have better marks vide Annexure M-1. The workman did not continue in service upto 30.09.2009, as alleged by him in the statement of claim. He has not completed 240 days from the date of his engagement as he was relieved on 31.12.2011 by Sh. Rajesh Kumar, an outsider GDS MD w.e.f. 03.01.2012 to 29.03.2013 and accordingly, the salary was also paid to Sh. Rajesh Kumar for the said period. Thereafter, the applicant was engaged for 89 days upto 31.12.2012. It is denied that the applicant was working but the charge was shown to be given to Kamal Dev GDS MD(Regular) for the period 21.03.2014 to 28.03.2014 to show discontinuity in service as alleged. It is admitted by the management that lastly claimant was engaged from 29.03.2014 to 03.06.2014 and was disengaged from 04.06.2014 due to the appointment of regular incumbent. He has not completed 240 days in 12 months prior to the date of disengagement. Therefore, Section 25-F of the ID Act is not attracted and notice or one month salary in lieu of notice is not required according to ID Act. Management had denied that the workman was not gainfully employed after his disengagement and is earning his livelihood and getting the amount he was drawing from the management before his disengagement. It is requested by the management that reference may be answered in negative and claim statement is liable to be rejected with cost.

3. Both the parties were given opportunities to lead evidence. Workman, Balwinder Kumar, has submitted his affidavit Ex.A-1 along with documents Ex.A-2 andA-3 and matriculation certificate Ex.A-4 as a part of his statement. He has denied the suggestion that at the time of his appointment he had assured that he will not claim regularization. This

witness has accepted that he used to work for five hours and did not appear in any examination to get his regular appointment. He has further denied the suggestion made by the learned counsel of the management that he did not work continuously and Rajesh Kumar was not appointed to show a break in the service. Ex.W1 is the service extension for 89 days. Similarly, W3 is the matriculation examination certificate of Rajesh Kumar, showing his date of birth 13.12.1995 which is relevant for the purpose for deciding whether he was major or minor at the time of the alleged engagement by the management.

4. Respondent-management has filed affidavit of Manoj Kumar, Sr. Supdt. Post Offices, Chandigarh., who has submitted his affidavit Ex.MW1/A along with documents Ex.M1 for the recruitment of claimant for the post of GDS MD. The management witness Sh. Manoj Kumar while cross-examined by the workman-counsel has admitted that his knowledge is based on the record of the department regarding the case in question before the Tribunal. He has denied that workman had worked from 26.09.2009 to 03.06.2014 continuously in the department. This witness has further stated that the actual work in the month of January, February and March 2012 and for the month of January, February 2013 was done by Rajesh Kumar and his attendance was marked also. This witness has stated that he has no record regarding attendance and date of birth of Rajesh Kumar. He has further denied the suggestion that workman rendered his services for 240 days before his termination on 04.06.2014 but admitted that he is not in a position to tell that how many days workman rendered his services before his termination. Thus, the evidence led by this witness clarified that workman was initially engaged on 26.02.2009 and disengaged on 04.06.2014 with break and he cannot tell the working days of the workman before last preceding one year from his alleged termination.

5. I have heard Sh. R.P. Rana, Ld. Counsel for the workman and Sh. Anish Babbar, Ld. Counsel for the management and perused the record carefully.

6. There is no dispute about preposition of law that onus to prove that claimant was in the employment of the management is always on the workman/claimant and it is for the workman to adduce evidence to prove factum of his employment with the management. Such evidence may be in form of receipt of salary or wages for 240 days or record of his appointment or engagement for that year to show that he had worked with the employer for 240 days or more in a calendar year. In this regard, reference may be made to **Batala Coop. Sugar Mills Ltv. Vs. Sowaran Singh(2005) 8 Supreme Court cases 481 as well as Director Fisheries Terminated Division Vs. Bhikubhai Meghajibhai Gavda(2012) 1 SCC 47**.

7. There is hardly any dispute with the preposition of law as propounded in the aforesaid cases. However, the factual scenario in the present case is bit different, inasmuch as the management in its written statement has clearly admitted the factum of employment of the claimant inasmuch as it has been stated that the workman was engaged in the office of Superintendent of Post Offices in the month of February 2009 on a stop gap arrangement where he worked with considerable break upto June 2014. As such, it clearly establishes relationship of employer-employee between the management and claimant. In this regard, reference can be made to the decision in the case of ***Devinder Singh Vs. Municipal Council, Sanaur, AIR 2011 Supreme Court 2532***,wherein, the Hon'ble Apex Court while interpreting the provisions of Section 2(S) of the Act which deals with the definition of "workman" has observed as follows:-

> ***"The source of employment, the quantum of recruitment, the terms & conditions of employment/ contract of service, the quantum of wages/ pay and mode of payment are not at all relevant for deciding whether or not a person is a workman within the meaning of Section 2(s) of the Act. The definition of workman also does not make any distinction between full time and part time employee or a person appointed on contract basis. There is nothing in the plain language of Section 2(s) from which it can be inferred that only person employed on regular basis or a person employed for doing whole time job is a workman and the one employed on temporary, part time or contract basis on fixed wages or as a casual employee or for doing duty for fixed hours is not a workman."***

It is clear from the perusal of aforesaid observations that even if a person is engaged on temporary, part time or contract basis or for doing any other kind of work and is duly paid wages for the said work, in that eventuality such a person would be covered by the definition of "workman" as provided in Section 2(S) of the Act. In these circumstances, it stands proved that there existed relationship of employer-employee between the parties.

8. It is a specific case of the workman/claimant that he was engaged as GDSMD by the management on daily wage basis w.e.f. 29.02.2009 and worked till 04.06.2014 when his services were illegally terminated. Thus, he in fact had competed more than 240 days of service in each calendar year but despite that no notice or compensation in lieu of notice period was given to him prior to termination of his services by the management. The affidavit filed by the workman/claimant is in line with the averments made in the claim petition.

9. In cross-examination, the claimant/workman has denied the suggestion of management counsel that he has not completed 240 days in each year or preceding year of his alleged termination on 04.06.2014. It may be mentioned that management has not adduced any evidence whatsoever in order to substantiate its stand that he was not engaged in the month of 2009 and had not worked for 240 days in each calendar year or preceding year of his alleged termination. It is

pertinent to mention here that claimant/workman had filed an application on 04.11.2015 for summoning/production of record by the management i.e. attendance register, pay roll, daily dak registry list which are in the custody of the management. In the reply, it has been stated by the management vide objection dated 20.01.2016 that original record is not required to be filed in Court and applicant may summon the witness along with record as prayed in the application but the same is not required to summon without any witness. Thus, management has safely tried not to produce the relevant documents which are necessary to prove the continuation of the services of the workman with the management from 24.02.2009 to 04.06.2014. The suggestion made by the management vide its objection is not tenable in the eye of law as management is under obligation to produce relevant documents to ensure the actual working period and services rendered by the workman during the disputed period. In my opinion, management is also under obligation to file on record the attendance register or pay roll and daily dak delivery list, which is most important document to prove or deny the real controversy between the workman/claimant and management. Daily dak delivery list is maintained by actual person of day to day working of GDSMD for delivery of letter registry and other parcels sent through post to the concerned person may have decisive factor for entire dispute. The management has not produced the aforesaid records merely by objecting that these documents are not required to be filed in the Court. During the course of arguments, learned counsel of the management could not satisfy the Tribunal when question put by me regarding the importance relevancy and utility of these documents to decide the real controversy between the parties. In these circumstances, this Tribunal is constrained to draw adverse inference against the management under Section 114(g) of the Evidence Act for non-production of requisite records and to believe the version of the claimant/workman that he worked with the management for over 240 days in each calendar year before his alleged disengagement/termination by the management.

10. There is another aspect of the matter as claimant has filed on record photocopy of the matriculation examination certificate of his nephew Rajesh Kumar issued by Punjab School Education Board as Annexure W-3. Learned counsel of the workman has drawn my attention towards the date of birth mentioned in the mark sheet of the Rajesh Kumar, which is 13.12.1995. Learned counsel further argued that version of the workman finds support from this document that actually he worked with the management for the month of January, February and March 2012 and from January and February 2013 but salary was prepared in the name of Rajesh Kumar nephew of the workman only to show artificial break in service of the claimant/workman. Learned counsel of the workman argued that by virtue of the date of birth of Rajesh Kumar, it was not possible for the management to engage him as GDSMD because he was minor at the relevant time. But in order to face saving device management adopted noble style by preparing salary in the name of Rajesh Kumar while the payment is made to the claimant/workman. Management has an opportunity to prove the payment made to Rakesh Kumar by filing salary papers and attendance register of Rajesh Kumar. The argument advanced by the learned counsel for the workman is in the line of the settled legal position that any minor cannot be assigned work in any establishment during the course of his minority. Against this, no evidence is led by the management while witness Manoj Kumar has admitted in his cross-examination that he has no record regarding the date of birth of Rajesh Kumar. But management did not care to file relevant documents pertaining to Rajesh Kumar and its reluctance for not filing the relevant documents is ample proof that there was something wrong with management in respect of workman. Hon'ble Supreme Court has specifically held in the case of ***Union of India Vs. Sardar Bahadur(1974)4 SCC 618, R.S Singh Vs. State of Punjab and other(1999)8 SCC page 90,*** and in the case of ***State Bank of India Vs. Narender Kumar Pandey, Civil Appeal No.263/2013 dated 14.01.2013*** that cases relating to the industrial dispute has to be decided on preponderance of probability rather than the proof beyond reasonable doubt. Thus, evidence adduced by the workman/claimant regarding his notional break appears to be true and I am fortified for this conclusion by the evidence led by the workman regarding the engagement of Rajesh Kumar a nephew of workman for six months from January to March 2012 and January, February 2013. It is pertinent to mention that management has though admitted the engagement of Rajesh Kumar but it has not denied either in written statement or in evidence led by the management that Manoj Kumar is not the nephew of the claimant/workman. Further question arises that why management chose to engage Rajesh Kumar in place of claimant/workman for the relevant period in spite of the fact that he was minor at the relevant time and could not be engaged for the duty of GDSMD. I am of the opinion that actually it was workman/claimant who was working with the management and performing his duty as GDSMD during the period for which Rajesh Kumar is shown to be engaged by the management. That is why, management knowingly concealed the relevant documents pertaining to Rajesh Kumar about his date of birth or other documents which are executed by the workman/claimant during his duty at relevant time and other documents pertaining to attendance etc. In view of this discussion, the contention of the management that the workman did not worked 240 days in each calendar year does not hold ground.

11. Now the vital question arises for consideration is whether the termination of the services of the claimant/workman by the management from 04.06.2014 is in accordance with the law or is violative of Section 25-F of the Act? Accordingly testimony of the workman/claimant the work of GDSMD on which he was working was of permanent nature and his services were terminated on 04.06.2014 without joining the new incumbent in place of claimant/workman without giving notice or one month salary in violation of Section 25-F of the Act. It is neither the case of the management that a notice or compensation in lieu of notice was given to the workman prior to the date of his

termination from 04.06.2014 nor such evidence is adduced by the management on record. Contrary to this, management has admitted in his written statement that workman/claimant was not given any notice or one month salary before his retrenchment/termination because he has participated in the proceeding of appointment of regular incumbent and was declared failed by virtue of the marks obtained by him in his matriculation. Management has filed document Ex.M-1 pertaining to comparative list of selected candidates for the post of GDSMD in which Ajay Kumar, Dilpreet Sharma, Ranjit Kumar Sharma, Miss Neelam Sharma and Krishan Kumar have been shown selected for the post of GDSMD Kotla Power House, having more marks than claimant/workman Balwinder Kumar, from 83.69% to 72.46% against the marks of the claimant Balwinder Kumar 28.9% only. It is pertinent to mention that claimant/workman has not challenged the selection or selection process but he has challenged his termination against the principles laid down in Section 25-F of the Industrial Disputes Act, 1947. I am not convince with the argument of the learned counsel of the management that workman/claimant was given opportunity to appear in the selection process for regular appointment and due to his failure, there was no need to give him one month notice or one month salary before his retrenchment in the light of the provisions of Section 25-F of the ID Act. There is long line of decisions of Hon'ble Apex Court as well as of various High Courts that provisions of Section 25-F of the Act are mandatory in nature and termination of the workman from services in derogation of the provisions of Section 25-F of the Act will render action of the management to be illegal and void under the law. Since there is no evidence on record that any valid notice was issued by the management to the workman at the time of termination or in lieu of such notice, any compensation was paid to him, as such action of the management in terminating the services of the workman is held to be illegal and void.

12. Now the residual question which arises for consideration is whether the claimant/workman is entitled for reinstatement in service with full back wages who was continuously in the employment of management from 24.02.2009 to 04.06.2014 with notional break on temporary basis which is extended from time to time upto 03.06.2014. There is no show cause notice or memo issued to the claimant/workman. He has pleaded that he is unemployed from the date of his termination and this factum is further proved by the workman in his affidavit filed as evidence and cross-examination by the learned counsel of the management. The management has not adduced any evidence to show that the claimant/workman has gainfully employed after the termination.

13. A Bench of three Judges of the Hon'ble Supreme Court in the case of ***Hindustan Tin Works Private Limited Vs. Employees of Hindustan Tin Works Private Limted(1979) 2 SCC 80,*** held that relief of reinstatement with continuity of service can be granted where termination of service is found to be invalid. It would mean that the employer has taken away illegally the right to work of the workman contrary to the relevant law or in breach of contract and simultaneously deprived the workman of his earnings. If thus the act of employer is found to be totally illegal and arbitrary, in that eventuality the workman is required to be reinstated, with full back wages. Plain common sense also dictates that the removal of an order terminating the services of workmen must ordinarily lead to the reinstatement of the services of the workmen along with payment of back wages.

14. However, Hon'ble Apex Court in the case ***General Manager, Haryana Roadways Vs. Rudan Singh, reported as 2005 SCC (L & S) 716,*** observed as under:-

> "8. There is no rule of thumb that in every case where the Industrial Tribunal gives a finding that the termination of service was in violation of Section 25-F of the Act, entire back wages should be awarded. A host of factors like the manner and method of selection and appointment i.e. whether after proper advertisement of the vacancy or inviting applications from the employment exchange, nature of appointment namely, whether ad hoc, short term, daily wage, temporary or permanent in character, any special qualification required for the job and the like should be weighed and balanced in taking a decision regarding award of back wages. ***One of the important factors which has to be taken into consideration is the length of service, which the workman had rendered with the employer. If the workman has rendered a considerable period of service and his services are wrongfully terminated, he may be awarded full or partial back wages keeping in view the fact that at this age and the qualification possessed by him he may not be in a position to get another employment. However, where the total length of service rendered by a workman is very small, the award of back wages for the complete period i.e. from the date of termination till the date of award, which our experience shows is often quite large, would be wholly inappropriate.*** A regular service of permanent character cannot be compared to short or intermittent daily wage employment though it may be for 240 days in a calander year."

15. The Hon'ble Apex Court in case ***"Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya" reported as (2013) 10 SCC 324*** has held as under:

> "The propositions which can be culled out from the aforementioned judgments are:

"i) In case of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule.

ii) Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the Court of first instance that he was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then I has to plead and also lead cogent evidence to prove that the workman wads gainfully employed and was getting wages equal to the wages he wads drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averments about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was not employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments."

16. The Hon'ble Apex Court also held that different expressions are used for describing the consequence of termination of a workman's service/employment/engagement by way of retrenchment without complying with the mandate of Section 25-F of the Act. Sometimes it has been termed as ab initio void, sometimes as illegal per se, sometime as nullity and sometimes as non est. Leaving aside the legal semantics, we have no hesitation to hold that termination of service of an employee by way of retrenchment without complying with the requirement of giving one month's notice or pay in lieu thereof and compensation in terms of Section 25-F (a) and (b) has the effect of rendering the action of the employer and nullity and the employee is entitled to continue in employment as if his service was not terminated. ***(Anoop Sharma Vs. Executive Engineer, Public Health Division No.1 Panipat (2010) 5 SCC 497).***

17. Having regard to the legal position as discussed above and the facts of the case, this Tribunal is of the firm view that the claimant herein is entitled for the compensation rather than reinstatement into service on the same post. Looking the nature of the salary and years of the workman in the service with the management, it will meet end of justice if compensation of Rs.4,00,000/- is awarded in favour of the workman and in case, this amount is not paid within one month from the date of publication of the award, the workman shall be entitled to the said amount with 6% interest from the date of notification of the reference till realization.

A. K. SINGH, Presiding Officer

नई दिल्ली, 30 अगस्त, 2019

का.आ. 1663.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स महाप्रबंधक, भारत इलेक्ट्रॉनिक्स लिमिटेड, पंचकुला (हरियाणा) और अन्य एवं उनके कर्मचारी के प्रबंधतंत्र के संबंद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चंडीगढ़ के पंचाट (संदर्भ संख्या 53/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 28.08.2019 को प्राप्त हुआ था।

[सं. एल-42011/03/2013-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 30th August, 2019

S.O. 1663.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 253/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh as shown in the Annexure, in the Industrial dispute between the employers in relation toThe General Manager, Bharat Elecltronics Ltd., Panchkula (Haryana) & Others, and their workmen which were received by the Central Government on 28.08.2019.

[No. L-42011/03/2013-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sh. A.K. Singh, Presiding Officer

ID No. 253/2013

Registered on:-09.05.2013

The General Secretary, Bharat Electronics Workers Union, Panchkula,
Bharat Electronics, 405, Industrial Area, Phase-III, Panchkula (Haryana)-134113 …Workmen/Union

Versus

The General Manager, Bharat Electronics Ltd., 405, Industrial Area,
Phase-3, Panchkula(Haryana)-134113 …Management

AWARD

Passed on:-13.08.2019

Central Government vide Notification No. L-42011/03/2013-IR(DU) Dated 22.04.2013, under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

"Whether demand of Bharat Electronics Workers Union, Panchkula against the management of Bharat Electronics Ltd., Panchkula in revising the PPI amount of Rs.45100/- for the year 2011-12 and Securing Rs.300/- Crores direct sales order for PK Unit for the year 2012-13 is just, valid and legal? If so, what benefits the union is entitled to and what directions are necessary in the matter?"

1. Both the parties were served with notices. The workmen/union filed their statement of claim, alleging therein that the present dispute is regarding payment of PPI(Plant Performance Incentive)for the year 2011-12 and the management has paid an amount of Rs.15,870/-, whereas the plea of the NTU is Rs.45,100/- and the management has violated the terms of the MoS by saying that PPI has been paid in accordance with the MoS dated 03.11.2010 and valid for 2009-10, 2010-11 and 2011-12. Admittedly, the parameters and weightage for PPI evaluation under the MoS will be the turnover, value added per employee and profit before tax to capital employed. It is fixed in the month of April and thereafter re-fixed/reviewed quarterly in the month of July, October and January and the final target fixed in the month of January is taken into consideration for the purpose of payment of PPI for that particular year. In April 2010, the target of Rs.327 crores(304+23 crores IUST) was fixed which was subsequently revised and reduced to Rs.272 crores and this amount of Rs.272 crores was taken into consideration for the purpose of calculation of PPI and the copy of minutes of meeting dated 16.12.2010 was supplied to the NTU on 20.12.2010 and the management has applied a totally different method for calculation of the PPI for the year 2011-12. In the month of October 2011 the target was reduced to Rs.216 crores(Rs.158 crores + 58 crores IUST) and finally in January 2012, it was further reduced to 164 crores(Rs.106 Crores+Rs.58 crores IUST) and Panchkula Unit has achieved this Target of Rs.164 Crores which was finally set for the year 2011-12 but management has calculating the PPI amount of Rs.225 crores instead of Rs.164 crores which was not a subject matter for calculation. Management has issued a monthly news letter and displayed it in all the notice boards for the information of the employees that what is our annual target and what we have achieved till date. In the month of February 2012 the total target for the year 2011-2012 was Rs.106.55 crores out of which the workmen/union had achieved 69.90 crores. That another gross error committed by the management while calculating PPI for the year 2011-12. It is further prayed that industrial dispute may kindly be decided in favour of the workers in the interest of justice.

2. Respondent/management has filed its written statement, alleging therein that present reference made by the Union is without jurisdiction and is not maintainable because memorandum of settlement arrived at between the Bharat Electronics Workers Union and management before the Regional Labour Commissioner, Central, Chandigarh under section 12(3) and 18(3) of the Industrial Disputes Act, 1947. The respondent/management entered into an MoS dated 03.09.2010 over the issue of plant performance incentive for three years running between 2009-10, 2010-11 and 2011-12. In accordance with the MoS dated 03.11.2010 demand of the Bharat Electronics Workers Union is totally baseless and devoid of merit. It is further stated on merit of the case that mode and manner in which PPI has made for the year 2011-12 and 2010-12 there is no change. The PPI calculation for both the years are annexed as Annexure M-2, M-3, M-4 and M-5 respectively. It is submitted that methodology of the calculation of the amount of PPI for the year 2011-12 is same as earlier years and all the figures are taken from the duly audited accounts of the unit. Copy of calculation sheet

is enclosed as Annexure M-4 and M-5. It is submitted that unit has paid the PPI amount correctly as per the MoS signed between NTU and Unit. It is misleading that MoU targets are re-fixed quarterly. The quarterly meeting held on Roll on plan and not on MoU. The minutes of meeting and news letter enclosed to the claim statement are reveals RoP targets and not MoU targets and hence misleading. The PPI calculations are done based on MoU target. It is categorically denied that any policy of its own choice in calculating the PPI for the year 2011-12 has been adopted by the respondent. It is pertinent to mention here that the employees at BEL Panchkula Unit has taken the PPI for the past two years based on the same methodology of calculation of PPI and hence, the contention of the Union that management has adopted unfair policy of its choice for the year 2010-11 is totally counterfeit and baseless. The PPI for the year 2011-12 has been paid as per the MoS signed on 03.11.2010 therefore, it is prayed that the claim of the Bharat Electronics Workers Union, Panchkula is liable to be dismissed in accordance with the facts.

3. Parties were given opportunity to lead evidence.

4. Sh. Rajesh Kumar, General Secretary, Bharat Electronics Workers Union, has submitted his affidavit as Ex.A1 and cross-examined by the management-counsel.

5. Management has submitted affidavit of Chetan J. Patil-Auti, Deputy General Manager(HR&A), Bharat Electronics Limitedas Ex.R1 along with Annexure M1 to M6 and has been cross-examined by the AR of the Union.

6. I have heard Sh. Rajesh Kumar, General Secretary, Bharat Electronics Workers Union, Panchkula, for the union and Sh. Kumar Nikshep, Ld. Counsel for the management and perused the file carefully.

7. It transpires from the record that at the stage of arguments, parties has entered into a compromise and consequently, an application dated 24.07.2019 for withdrawal of the case is submitted by Mr. Rajesh Kumar, General Secretary, Bharat Electronics Workers Union, Panchkula. Para 3 of the application runs as follows:-

> ***"It is submitted that an understanding is reached between the union and management. According to the understanding, management extended the medical benefits to the employees and Fortis Hospital Mohali, Ojas Hospital Panchkula, Ivy Hospital Mohali, Ivy Hospital Mansadevi complex has been empaneled for all kind of the indoor and outdoor treatments in lieu of the claim demanded by the union in the present reference. Further, management assured the union for empanelment of Paras Hospital Panchkula."***

8. The learned AR of both the sides requested that legally withdrawal of the reference is not possible hence an order be passed in the light of the facts alleged in the withdrawal application and reference be answered accordingly.

9. Undoubtedly, parties have reached an understanding regarding the extension of medical benefits to the employees for the facility of the hospitals mentioned in Para 3 of the application dated 24.07.2019. As such, there is no need of examination of the pleadings of the parties as well as evidence led by the respective parties to decide the reference on merit. Hence, this tribunal is of the considered opinion that reference is liable to be answered in the light of the application dated 24.07.2019 with the understanding mentioned therein and the understanding stipulated in application filed by the AR of the Union, Bharat Electronics Workers Union, Panchkula, shall be the part of the award.

A. K. SINGH, Presiding Officer

नई दिल्ली, 30 अगस्त, 2019

का.आ. 1664.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स अधीक्षण पुरातत्वविद् भारतीय पुरातत्व सर्वेक्षण, बैंगलोर, और अन्य एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बैंगलोर के पंचाट (संदर्भ संख्या 70/1990) को प्रकाशित करती है जो केन्द्रीय सरकार को 30.08.2019 को प्राप्त हुआ था।

[सं. एल-42012/79/1990-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 30th August, 2019

S.O. 1664.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 70/1990) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the Industrial dispute between the employers in relation toThe Superintending Archaeologist Archaeological Survey of India, Bangalore & Others, and their workmen which were received by the Central Government on 30.08.2019.

[No. L-42012/79/1990-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 20TH AUGUST 2019

PRESENT : Justice Smt. Ratnakala, Presiding Officer

CR 70/1990

I Party
Sh. M. Mariswamy,
S/o Sh. Muthu,
R/at 295, Reddiyar Periya Street,
Mekkalur Post, Kil Pennathr
Via Tiruvannamalai,
Taluk & District - 604 601.

II Party
1. The Superintending Archaeologist,
Archaeological Survey of India,
Bangalore Circle,
4th 'T' Block, Jayanagar,
Bangalore - 560 041.

2. The Dy. Supdt of Archaeologist,
Archaeological Survey of India,
Kamalapur P.O. - 583 221

Appearance

Advocate for II Party : Mr. Sathish B

AWARD

The Central Government vide Order No. L-42012/79/90-IR(DU) dated 09.11.1990 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

> **"Whether the action of the Archaeological Survey of India, Bangalore Circle, Bangalore in terminating the services of the workmen without any reasons and without complying the provisions of the Industrial Disputes Act, 1947 is justified? If not, to what relief the workmen are entitled to?"**

1. In their claim statement the 1st Party Union contended that the workmen who were working as Daily Wages at Hampi National Project are their members. They are about 250 workmen working for 2 years to 8 years in different category. The 2nd Party Management maintained seniority list of their workers in the year 1986; without following the mandatory provisions of section 25-F of the Industrial Dispute Act all of a sudden 2nd Party refused work to the 1st Party workers on 05.03.1990.

2. The 2nd Party in their counter statement contended that at present there is no Office of Hampi National Project at Kamalapur and the Hampi excavations are now directly looked after by the Archaeological Survey of India, Bangalore Circle, Bangalore which is under the direct control of Ministry of Human Resource Development, Department of Culture of Government of India. The labourers of different categories were engaged as and when required on daily wage basis at P.W.D Schedule of rates; the work was of seasonal nature and the labourers were engaged intermittently. The workers were engaged on daily wages on N.M.R for certain work of casual nature for intermittent period; since the work was of seasonal nature it had to be suspended. The project is not sanctioned with regular Group-D post; workers are not engaged against any regular vacancy.

3. On reiterating evidence by both sides vide Award dated 13.06.01 this Tribunal passed award as below:-

> '*The order of termination is not correct and the same is set aside. The second party is directed to reinstate the firs party workmen with continuity of service and in the given circumstances back wages are not allowed*'.

4. The matter was by 1st Party challenged before the Hon'ble High Court in W.P No. 41445/2001 and connected cases. The Hon'ble High Court allowed the W.Ps, set aside the Award and remanded the matter to the Tribunal. When the matter was pending reconsideration the 2nd Party filed a memo enclosing the resolution dated 20.11.2001 wherein the Management agreed to grant temporary status with prospective dates of the order to some of the employees. The memo pertained to withdrawing of the dispute in respect of 98+2 employees. This Tribunal in pursuance of the said memo rejected the reference as withdrawn by the 1st Party Union. Sh. M. Mariswamy challenged the Award before the Hon'ble High Court in W.P No. 19865/2013. His grievance was, he was one of the employees working with the respondent and he was also entitled to be absorbed in the services and be compensated in appropriate manner etc. The Hon'ble High Court allowed the petition, the operative portion of the order reads as below:-

> *'In that light, the award dated 21.11.2011 is modified and a direction is issued to the CGIT to restore C.R No. 70/1990 on file, provide opportunity to the petitioner herein to file a claim statement, notify the respondents and thereafter consider the claim of the petitioner in the background of the reference that has been originally made by considering the case of the petitioner as being one of the workmen under the said reference. The consideration shall be made as expeditiously as possible'.*

5. On remand Sh. M. Mariswamy filed a claim statement on following lines:-

He was part of the batch of 98 daily wagers who were granted temporary status by the Management; due to his ill health he went to his native place for treatment in 2009; he was not aware of the settlement, on return he requested the 2nd Party to take him on duty and confer the status of temporary worker for which they did not respond. He has rendered service from 1987 till 2010; he is discriminated and deprived of the same benefit which is conferred on his batch mates. He was working as a Office Boy / Jawali and machinery work which were all of permanent nature; he was directly appointed and was paid wages by the 2nd Party; the work performed by him is of perennial in nature. He seeks for a direction to the 2nd Party to reinstate him in his original post, with full back wages, continuity of service and all other consequential benefits.

6. The 2nd Party is represented and had sought time to file counter statement. Despite availing sufficient time since failed to file counter statement they were placed Ex-parte. Subsequently counsel of Sh. M. Mariswamy retired from the case by producing copy of notice of retirement issued to the 1st Party. In this back ground notice was issued to the 1st Party which returned unserved. A letter is received in Tamil language from one Smt. M. Maheshwari W/o Sh. M. Mariswamy stating that Sh. M. Mariswamy expired on 06.12.2017, a copy of the Death Certificate which is also filled up in Tamil language is annexed to the said letter. No effort is taken to bring the Legal Representatives of the deceased on record. The Hon'ble High Court in W.P No. 19865/2013 at para 10 had observed as below:-

> '*Therefore though this Court does not find the need to set aside the award in its entirety, it is clarified that the memo of withdrawal that had been filed before the CGIT would stand limited only insofar as 98+2 workmen in respect of whom the memo had been filed, but the reference would stand restored insofar as the petitioner herein is concerned*'.

7. In the above circumstances it is deemed that the referred issue pertains to the justifiability of the termination of the workman late Sh. M. Mariswamy without complying the provisions of the Industrial Dispute Act, 1947. In the absence of anything contrary to the claim statement it is inevitable to hold that the 2nd Party failed to justify their action of termination of service of 1st Party workman Sh. M. Mariswamy. Since the 1st Party workman all the while had agitated for relief in par with his batch mates who are accorded temporary service without any monetary benefit towards their past service, no relief can be granted of similar nature since he is no more. Ultimately the answer to the referred issue is

AWARD

The reference is rejected.

(Dictated to o/s Steno, transcribed by her, corrected and signed by me on 20th August, 2019)

JUSTICE SMT. RATNAKALA, Presiding Officer

नई दिल्ली, 30 अगस्त, 2019

का.आ. 1665.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स सचिव, तुंगभद्रा बांध, टीबी बांध, बेल्लारी और अन्य एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बैंगलोर के पंचाट (संदर्भ संख्या 23/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 30.08.2019 को प्राप्त हुए थे।

[सं. एल-42011/28/2012-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 30th August, 2019

S.O. 1665.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 23/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the Industrial dispute between the employers in relation toThe Secreatry, Tungabhadra Dam, TB Dam, Bellary & Others, and their workmen which were received by the Central Government on 30.08.2019.

[No. L-42011/28/2012-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 16TH AUGUST 2019

PRESENT : Justice Smt. Ratnakala, Presiding Officer

CR 23/2012

I Party	**II Party**
The Hon President, Tungabhadra Board Employees Federation, Hospet, Bellary - 583225.	The Secreatry Tungabhadra Dam, TB Dam, Hospet Taluk, Bellary - 583225.

Appearance

Advocate for I Party : Mr. Muralidhara

Advocate for II Party : Mr. R. Satyamurthy

AWARD

The Central Government vide Order No. L-42011/28/2012-IR(DU) dated 31.07.2012 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

> **"Whether the action of management of Tungabhadra Board, T.B. Dam, in effecting reduction in rank and denial of promotion in respect of Shri. S. Mahiboob, workman is legal, proper and justified? If not, what relief the workman is entitled to?"**

1. The 1st Party Trade Union has sponsored the cause of the workman Sh. S Mahiboob the employee of the 2nd Party, who was appointed as Literate Mazdoor in the 2nd Party. Since, the 2nd Party did not regularise his service, he approached the Hon'ble High Court in WP No. 18229/1991. The Hon'ble High Court of Karnataka allowed the petition directed the Management / 2nd Party to grant fresh regularisation of tenure from 01.09.1995. The 2nd Party reemployed him to work at Holagunda Sub-Division.

It is the claim allegation that he is entitled to be employed under Work Charge Establishment w.e.f 01.11.1988, considering his appointment as Literate Mazdoor in the year 1983. The 2nd Party converted his appointment to Work Charge Establishment Contingent w.e.f 01.09.1995. He sought for his service to be brought under Work Charge Employment from October 1988 and as regular employee from 01.11.1988. But, his prayer was turned down by the 2nd Party vide letter dated 17.01.2004. He challenged the validity of endorsement before the Hon'ble High Court while the matter was pending before the Hon'ble High Court, the 2nd Party issued orders dated 24.02.2006 stating that, he completed 10 years of service as Work Charged / Contingent Employee on 31.08.2005 and he shall be governed by the rules applicable to Karnataka Government Servants.

The Hon'ble High Court though dismissed his Writ Petition however, has stated that the dismissal of the petition should not be construed that 2nd Party is not required to give any benefits to him. He has lost 12 years of his service and his seniority to that extent. Many of his juniors in the Seniority list of Literate Mazdoors got into Work Charge Establishment far earlier to him. He will lose pensionary and other terminal benefits for the said period of 12 years. Having worked since October 1983, he is entitled to have his service counted from October 1983 for the purpose of seniority, promotion and pensionary benefits but same is denied to him.

2. The counter case of the 2nd Party is, it is not an independent autonomous body having separate legal existence. It was established by the President of India on 10.03.1956 in pursuance of Sub-Section 5 of Section 66 of Andhra Act (30/1953) to take charge and deal with all matters relating to works which are common to both States of Andhra Pradesh and Karnataka. Its status is enunciated in the letter dated 28.11.1961 issued by Ministry of Irrigation. The budget of the 2nd Party is incorporated in the budget of Andhra Pradesh Government; expenditure incurred is apportioned between the State of Andhra Pradesh and Karnataka. It is not an Industry as held by the Hon'ble High Court of Karnataka in the matter of Dr. Dasa Rao vs T.B. Board, reported in KLJ 1982(2) 147 and another case reported in ILR 2002 SC 839.

The Apex Court in the Judgement reported in AIR 1979 SC 1981 held that, the Tribunal has no jurisdiction to entertain the claim under I.D Act. The funds required for running and maintenance of 2nd Party are drawn from the Government Treasury as per Government Rules. All the posts are treated as part and parcel of the department of both Governments.

3. It is the further case of the 2nd Party, as per the Judgment of the Supreme Court reported in AIR 2006 P 1806, unless a daily wage employee have worked continuously for a period of 10 years in a sanctioned vacant post, he is not entitled for regularisation; he has not worked under any sanctioned post. The 2nd Party is not aware of the existence of the 1st Party Union; the 2nd Party has not recognised the Union and its Office bearers thereof. The claim is barred by time. As per the order of the Hon'ble High Court 1st Party is entitled for regularisation from 01.09.1995 only.

4. The 2nd Party placed evidence asserting its case through its Section Officer, Sub-Divisional Office, LLC No.2. The witness produced the Judgements of the Hon'ble High Court as Exhibits.

Rebuttal evidence is given by the 1st Party workman, but there was no cross-examination for him.

5. Both Parties have submitted their arguments.

The Primary resistance to the claim is that, the 2nd Party is not an Industry. In this regard the 1st Party has produced the Judgment reported in ILR 2000 KAR 402 in the matter of Tungabhadra Board vs Easu and Another wherein, it was held that Tungabhadra Board is an Industry. That caps the contention of the 2nd Party about Jurisdiction of this Tribunal to entertain the Industrial dispute.

6. Without reiterating the history of this case, looking at the grounds urged by the petitioner for his relief is, the 2nd Party did not cross-examine him; they are not precluded from giving benefit of regularisation from 1984 as given to other NMR workmen in the letter of the Executive Engineer as Ex W-1. Looking at Ex W-1, it is a Photostat Copy of a letter authored by Executive Engineer dated 08.08.1997, addressed to the Superintendent Engineer Irrigation Branch. In this letter the Author reflects on the service rendered by the 1st Party in NMR from 10/83 to 07/88 and recommends for consideration of his request to consider the service rendered by him at NMR previously.

7. It can be presumed that, the Hon'ble High Court in WP No. 51554/2004 kept open the avenue through which *'any further benefit'* may be granted to the petitioner therein (1st Party workman).

It was ordered, *'it is for the Respondents to consider and take the decision in the matter in accordance with law and keeping in view the requirements of the welfare state….'*

8. On a reading of the Judgement rendered by the Hon'ble High Court in WP NO. 18229/1991, it eminates that he had contended that, he was employed on several occasions by the Department for varying periods of time and all those were after 01.07.1984. He had produced a letter issued by Assistant Engineer LIC No. 04 Sub-Division dated 29.06.1984 mentioning that he was working in the Office since June 1983 as a Clerk. The Hon'ble High Court on the rival submission from the Department held that, correctness of the said document is seriously in dispute. He had produced another document signed by the Executive Engineer, LIC Division Bellary, indicating that for want of record

from the relevant Division 17 persons (one of whom was the petitioner) had been excluded from the earlier list, and recommended for consideration of the list. The Hon'ble High Court on hearing to both parties in this regard records that, *".....the matter was not entirely free from doubt which was why the entire difficulty has arisen".*

However, the Hon'ble High Court proceeded to mould the relief on the admission of the Department, that *'the petitioner was in fact working at different periods of time and even on their admission the commencement of those periods is extremely close to the cut off date.'*

9. The observation of the Hon'ble High Court remains intact. He is not able to produce any better evidence before this Tribunal qualifying for regularisation of this service with effect from October 1988. The claim of the Union lacks merits. The dispute referred sounds that he was reduced in rank and denied promotion, which actually is not the case of the 1st Party. As such there was not such order either in reducing his rank or denying promotion. Hence, the following

AWARD

The reference is rejected

(Dictated to o/s LDC, transcribed by her, corrected and signed by me on 16th August, 2019)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 30 अगस्त, 2019

का.आ. 1666.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स ब्रिगेडियर,अध्यक्ष, आर्मी पब्लिक स्कूल, बैंगलोर और अन्य एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बैंगलोर के पंचाट (संदर्भ संख्या 33/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 30.08.2019 को प्राप्त हुए थे।

[सं. एल-14012/31/2009-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 30th August, 2019

S.O. 1666.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 33/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the Industrial dispute between the employers in relation toThe Brig, Chairman, Army Public School, Bangalore, & Others, and their workmen which were received by the Central Government on 30.08.2019.

[No. L-14012/31/2009-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 16TH AUGUST 2019

PRESENT : Justice Smt. Ratnakala, Presiding Officer

CR 33/2011

I Party
Sh. Lakshminarayana,
S/o Sh. Chinaswamy,
C/o Nagappa, Valepura,
Sorahunase Post,
Bangalore East Taluk,
Bangalore - 560 087.

II Party
The Brig. Offg. Chairman,
Army Public School,
Abdul Hameed Barracks,
K. Kamraj Road,
Bangalore - 560 042.

Appearance

Advocate for I Party : Mr. G.V.P. Reddy

Advocate for II Party : Mr. Ramesh Upadhyaya

AWARD

The Central Government vide Order No. L-14012/31/2009-IR(DU) dated 19.08.2011 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

"Whether the action of the management of M/s Army Public School, Bangalore, in terminating the services of Shri. Lakshminarayana w.e.f 01.01.2006 is legal and justified? What relief the workman is entitled to?"

1. The case of the 1st Party workman is, he was appointed as Groundsman by the 2nd Party w.e.f 1984 and was terminated from service w.e.f 28.12.2005. Since the Officials of the 2nd Party School including its Principal were demanding money from the employees, he gave complaint to the Chairman of the 2nd Party Management and also complained to the Labour Department, Government of Karnataka explaining the harassment and ill treatment of the 2nd Party. That made the Management to develop hostile attitude against him. On 01.01.2006 he worked for 2 hours thereafter the 2nd Party without assigning any reason told him not to come to duty. They gave him a letter of termination dated 28.12.2006; he was not issued any memo, show cause notice or charge sheet; no enquiry is conducted against him. The action of the Management is not justified.

2. The 2nd Party countered the claim allegation thus: -

The 2nd Party is an Educational Institution established under the aegis of Indian Army Welfare Society headed by a Brigadier of the Indian Army as its Chairman. The main purpose of the School is to provide education to the children of serving defence personnel and also Ex-servicemen; it is not a profit earning organisation. The service of the 1st Party workman was not satisfactory, he was issued show cause notices, warning letters on several occasion he was orally warned, but he did not improve; show cause notice dated 17.12.2005 was issued and he gave his reply dated 20.12.2005 admitting the charges. Hence there was no need to conduct further enquiry. Considering his reply and also the statement of witnesses including that of the 1st Party given before the Enquiry Board which was constituted prior to issuance of show cause notice termination order is passed. Several misconducts committed by him are major misconducts and grave in nature; he is involved in theft of school proprieties, insubordination, negligence and carelessness. It is managed by the Board of Governors who are voluntary individuals; his allegations against the Officials and the Principal etc are false.

3. After the 2nd Party filed their counter statement 1st Party filed additional claim statement denying the allegations made against him.

4. Both parties have adduced evidence and addressed arguments.

5. As per the case of the 2nd Party since the 1st Party workman in response to the show cause notice dated 17.12.2005 admitted the allegations vide his reply dated 20.12.2005, it did not necessitate them anymore to issue charge sheet and hold the Departmental Enquiry. The Administrative Officer of the 2nd Party Army Public School while justifying the action taken by the 2nd Party has produced the copy of the Show cause notice dated 17.12.2005 as Ex M-1, the reply by the 1st Party workman as Ex M-2 and the Termination Order as Ex M-3.

6. During his rebuttal evidence the 1st Party disputed having received any shown cause notice and submitting his reply at Ex M-2. His grievance is, the 2nd Party is extracting over-time work from the employees without paying over-time wages; the Officials including the Principal demand amount from employees to pay for various departments, in this regard he has given complain to Chairman of the 2nd Party and the Labour Department, Government of Karnataka.

During cross examination he admits his signature on his reply Ex M-2 but maintains that as per the instructions of the principal he subscribed his signature at Ex M-2.

That takes away his entire case that in violation of Principles of Natural Justice 2nd Party has terminated him. Had if he was either lured or coerced to sign on Ex M-2 he ought to have pleaded so in the claim statement.

7. At Ex M-1/ the show cause notice, it is alleged that the Board of Inquiry has established the following charges against him,

a) Late for school/ assigned duty

b) Absent without leave

c) Using foul language

d) Sleeping on duty

e) Smoking on duty in school premises

f) Being insubordinate to superiors

g) Misusing principal's name

h) Losing identity card

i) Assisting in carrying out theft of school property

j) Working as a domestic help in a civilian residence contrary to existing orders

k) Not performing assigned duties satisfactorily

There is no improvement in his discipline even after receiving 30 memos for the above mentioned lapses / offences since 1994.

Ex M-2 (typed draft) / is the reply to the show cause notice Ex M-1. The body of this letter reads thus: -

"*With due respect in connetion with the above subject I like to state the following facts for favour of your kind consideration and benign orders please.*

1. *At the first instance I accept the charges levelled against me under point No. a) to k) and I have 21 years of long services and I am sorry for the instance.*
2. *Sir, I am a illiterate person and might have committed few mistakes which is not intensional and is not knowingly happened. Any how I pray pardon for the same.*
3. *Sir, I have no source of income except the income I gain from this service and I have my wife and 3 school going children and are fully dependent on me and if anything happens to my service than my family members will be facing starvation.*
4. *I duly requesting for pardon request your goodself to kindly excuse me for this time and allow me to resume my normal duties as usual and I promise that in future I shall be careful in my duties and also shall be obedient to my superiors and safordinates.*

Hope my request will favourably and sympathetically be considered for which act of your kindness I shall be prayful to you and oblige".

8. When an employee unequivocally admits the charges levelled against him there is no obligation on the part of the employer to probe any further about the truthfulness or otherwise of the charges. Since, the 1st Party during the cross examination admitted his signature on Ex M-2, that gives rise to an inference that he intentionally suppressed the material facts before the Conciliation Officer and also before this Tribunal. Had if he had signed Ex M-2 for any extraneous reason he ought to have pleaded so in his claim statement. After the Management side evidence was closed, he filed his affidavit evidence; at that stage also he had opportunity to meet the case of the 2nd Party and to explain the circumstances leading to submission of the letter Ex M-2. But in his affidavit evidence he did not care to address Ex M-1 and Ex M-2. The allegations made against him are grave and serious and unbecoming of an employee of an Institution. It is not an accidental slip or a solitary incident, as per the memo and the Termination Order he has been given sufficient warning since 1994 and there is no improvement in his personal discipline. Such insubordination, unruly behaviour of an employee definitely calls for proportionate punishment. At this stage also he is alleging corrupt practices against the Principal and Officials of the school, which by itself indicates his insubordination to his superior. Definitely no establishment can pull on with such employees who are habituals.

9. The 2nd Party is governed by their "*Rules and Regulations for Army Schools / Army Public Schools"* which by itself is a complete Code covering various aspects including discipline, termination of service, representations and reporting of incidents (at Chapter 9). The punishment imposed is not in violation of the procedure contemplated by chapter 9.

10. For the reasons supra I hold that the action of the 2nd Party M/s Army Public School in terminating the services of the 1st Party Sh. Lakshimnarayana w.e.f 01.01.2006 is justified. He is not entitled for any relief in this reference.

AWARD

The reference is rejected

(Dictated to o/s Steno, transcribed by her, corrected and signed by me on 16th August, 2019)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 30 अगस्त, 2019

का.आ. 1667.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स अधीक्षण पुरातत्वविद, भारतीय पुरातत्व सर्वेक्षण, पटना,और अन्य एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केंद्र सरकार के औद्योगिक न्यायाधिकरण सह पटना के पंचाट (संदर्भ संख्या 10(C)2012, 36/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 06.08.2019 को प्राप्त हुए थे ।

[सं. एल-42025/03/2019-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the the 30th August, 2019

S.O. 1667.—In pursuance of Section 17 of the Industrial Dispute Act, 1947, the Central Government hereby publishes the award (Ref. No. 10(C) 2012, 36 of 2014) of the Central Government Industrial Tribunal-cum Patna as shown in the Annexure, in the Industrial dispute between the employers in relation to The Superintending Archeolodist, Archaeological Survey of India, Patna & Others, and their workmen which were received by the Central Government on 06.08.2019.

[No. L-42025/03/2019-IR(DU)]

V. K. THAKUR, Section Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, PATNA

Reference Case No.:- 10 (C) of 2015

36 of 2014

Between the management of The Superintending Archeolodist, Archaeological Survey of India, Govt. of India, Patna Circle, J.C. Road, Patna (Bihar) and Their workman Sri Saroj Kumar Chaurasia, S/O- Sri Jai Hind Prasad Chaurasia, Moh.- In front of Sobhaganj Bus Depot, Ward No.-40, P.O + P.S- Sasaram, Rohtas.

For the management : Sri Sudhir Kumar Tiwary, advocate.

For the Workman : Mr. Behzad Akhtar, Advocate.

Present : Vishweshwar Nath Mishra Presiding Officer,
Industrial Tribunal, Patna.

AWARD

Patna, dated- 29th July, 2019

By the adjudication order No.-L-42012/34/2014-IR(DU) dated- 01.07.2017 the Govt. of India,// Bharat Sarkar, Ministry of Labour / Sram Mantralaya New Delhi has referred under clause (d) of sub-section-(1) and sub-section-(2A) of section-10 of the Industrial Dispute Act, 1947, (hereinafter to be referred to as " the Act"), the following dispute between the management of The Superintending Archeolodist, Archaeological Survey of India, Govt. of India, Patna Circle, J.C. Road, Patna (Bihar) and Their workman Sri Saroj Kumar Chaurasia, S/O- Sri Jai Hind Prasad Chaurasia, Moh.- In front of Sobhaganj Bus Depot, Ward No.-40, P.O + P.S- Sasaram, Rohtas for adjudication to the Central Govt. Industrial Tribunal-cum-Labour Court No.-2, Dhanbad. However, in the light of the Govt. of India// Bharat Sarkar, Ministry of Labour / Shram Mantralaya, New Delhi, letter vide order no.-Z-25025/4/2014-CLS-II dated- 07th May, 2014 the Central Govt. Industrial Tribunal-cum-Labour Court No.-2, Dhanbad transferred this Industrial Dispute vide letter no.- 36/2014/377 dt- 1st October, 2015 to State Industrial tribunal, Patna.

SCHEDULE

" Whether the action of the management of archeological survey of India over alleged unfair labour practice by the management by terminating Sri Saroj Kumar Chaurasia from service w.e.f. 15.08.1996 is legal and justified? If not, what relief the workman is entitled to?"

2. Earlier this case was pending in the court at Central Govt. Industrial Tribunal-cum-Labour Court No.-2 Dhanbad, and the same on the request made by the workman was transferred to this tribunal, on the basis of the order passed by the Central Govt. Industrial Tribunal-cum-Labour Court No.-2, Dhanbad on 30.09.2015.

3. Record of this case was received in this court on 07.10.2015, after which notices were issued to both the parties. Pursuant to which they appeared before this tribunal. The statement of claim and written statement were filed by the parties and the parties were directed to furnished list of witnesses and documents, so that the case may proceed further. But the parties left taking proper interest in this case. Although management appeared on few dates but the workman has left pairvi in this case since 12.05.2016 and as such the order / direction given were not complied by the workman. All the aforesaid facts show that the workman has no interest at all in this case.

4. The learned counsel for the management is present who submitted that the workman has deliberately left pairvi in this case and is showing no interest in progress of this case and hence no dispute award be passed in this case.

5. Perused the case record and I find sufficient force in the submission of the learned counsel for the management. The record also shows that no pairvi in this case is be done by the workman for the last morethan three years. It shows the lack of interest of the workman in the progress / disposal of this case. Accordingly, this case is dispossed of as no dispute between the parties and accordingly, " No Dispute Award " is being passed in this case. This award is effected after date of publication and gazette.

And accordingly this is my award.

Dictated & Corrected by me.

29.07.2019

VISHWESHWAR NATH MISHRA, Presiding Officer

नई दिल्ली, 30 अगस्त, 2019

का.आ. 1668.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स महाप्रबंधक, एनटीपीसी-सेल, पावर कंपनी प्राइवेट लिमिटेड, दुर्ग (सी.जी) और अन्य एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 17/2018) को प्रकाशित करती है जो केन्द्रीय सरकार को 16.08.19को प्राप्त हुए थे ।

[सं. एल-42011/198/2017-आईआर (डीयू)]

वी. के. ठाकुर, अनुभाग अधिकारी

New Delhi, the 30th August, 2019

S.O. 1668.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No 17/2018) of the Central Government Industrial Tribunal-cum Labour Court, Jabalpur, as shown in the Annexure, in the Industrial dispute between the employers in relation to the General Manager, NTPC-SAIL, Power Company Pvt .Ltd., Durg (C.G) & Others, and their workmen which were received by the Central Government on 16.08.19.

[No. L-42011/198/2017-IR (DU)]

V. K. THAKUR, Section Officer

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/17/2018

General Secretary,
Bhilai Power Worker Union,
7-B, Ruabandha Sector, Bhilai,
Durg (CG) …Workman/Union

Versus

General Manager,
NTPC-SAIL, Power Company Pvt.Ltd.,
NSPCL, Puraina, Bhilai,
Durg (CG) …Management

AWARD

Passed on this 25th day of June 2019

1. As per letter dated 28-3-2018 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-42011/198/2017-IR(DU). The dispute under reference relates to:

> "Whether the action of the management of NSPCL, Bhilai in respect of recovery/ deduction of Liveries allowance fr4om employees with restorative effect is legal, justified and reasonable? If not, what relief the employees of NSPCL led by Bhilai Power Workers Union are entitled to?2. NSPCL is a joint venture of NTPC and SAIL and public sector undertaking and the Central Government is appropriate Government."

2. Notices were issued to the parties. Secretary of the Union and authorized representative Shri Devendra Kumar Verma appeared on behalf of workman/ Union. Shri Abdul Waseem, DGM(HR), appeared on behalf of management as its authorized representative. Parties jointly filed memorandum of settlement Form H and requested that the award be passed in terms of settlement hence award is passed in terms of settlement Form H which shall be part of the award.

Dated: 25-6-2019

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 5 सितम्बर, 2019

का.आ. 1669.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय पुरात्तव सर्वेक्षण के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण–सह-श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 03/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05.09.2019 को प्राप्त हुआ था।

[सं. एल–42012/40/2004–आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 5th September, 2019

S.O. 1669.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the Corrigendum of Award (Ref. No. 03/2005*)* of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the industrial dispute between the management of Archaelogical Survey of India and their workmen, received by the Central Government on 05.09.2019.

[No. L-42012/40/2004-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL–CUM-LABOUR COURT LUCKNOW

PRESENT : RAKESH KUMAR**,** PRESIDING OFFICER

I.D. No. 03/2005

Ref. No. L-42012/40/2004– IR (CM-II) dated: 24.12.2004

BETWEEN :

Sh. Jai Singh, S/o Sh. Daryab Singh
R/o Sikari 2, Hissa Phetapur, Sikri Agra (UP)

AND

The Superintending Horticulturist
Archaeological Survey of India
Agra Circle, 22 Mall Road,
Agra (U.P.) – 202001

AWARD

1. By order No. L-42012/40/2004– IR (CM-II) dated: 24.12.2004 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Sh. Jai Singh, S/o Sh. Daryab Singh, R/o Sikari 2, Hissa Phetapur, Sikri, Agra (UP) and the Superintending Horticulturist, Archaeological Survey of India, Agra Circle, 22 Mall Road, Agra (U.P.) – 20200 for adjudication.

2. The reference under adjudication is:

"KYA ADHIKSHAN PURATATVAVID, BHARTIYA PURATATV SARVEKSHAN, AGRA DWARA SHRI JAI SINGH ATMAJ SHRI DARYAB SINGH KO TEMPORARY STATUS NAHI DETE HUE DINANK 1.8.2002 SE SEWA SE NISHKAASIT KARNA NYAYOCHIT HAI? YADI NAHI, TO SAMBANDHIT KARMKAAR KIS ANUTOSH KA HAKDAAR HAI?"

3. The case of the workman, Jai Singh, in brief, is that he had been working with the ASI, Agra since 10.07.1989 as Beldar who was engaged in maintenance of monuments, which is perennial nature of work; and his services have been terminated by the management of ASI w.e.f. 01.08.2002 in illegal way without assigning any reason or charge sheet or retrenchment compensation; whereas he had become entitled for grant of temporary status in terms of OM No. 51016/2/90/EST.(C) dated 10.09.1993. The workman has alleged that the management has engaged one Mahraj Singh in his place and other hundreds of workmen. The workman has submitted that his name was at serial No. 68 of the seniority list and the management has terminated his services without following principle of 'first come last go'. The workman has submitted that a seniority list of daily wager is prepared by the management of ASI; but they manipulate the same and keep on engaging workers in an arbitrary manner and an FIR to the effect has been lodged for manipulation in the government documents against the management of ASI. The workman has alleged that he had become entitled for grant of temporary status by virtue of his long duration of services and he demanded accordingly, but, the management terminated his services w.e.f. 01.08.2002, instead of granting him temporary status. Accordingly, the workman has prayed for his reinstatement with consequential benefits, including back wages and temporary status.

4. The management of the ASI has opposed the claim of the workman by filing written statement wherein it has submitted that the present claim of the workman is not maintainable as the ASI does not come within the definition of 'Industry'. It has further submitted that the workman was engaged as casual labour as per availability of work and has never worked for 240 days in any calendar year. The management has submitted that the workman was never appointed on any post as such the question of his termination does not arise; since his engagement was dependent upon the highly intermittent casual nature of work and as soon as the job ended, he was no more engaged, therefore, such disengagement does not amount to termination so as to attract any provision of law. The management has also submitted that the workman was not declared as a temporary status worker as per Government order dated 10.09.93 as he did not work during the year preceding 10.09.1993. The management has further asserted that the seniority list submitted by the workman is old one and since the workman himself left the work of his own, therefore, he was discontinued from work and the list quoted by the workman should not be considered at this distance of time. Accordingly, the management has prayed that the claim of the workman be rejected being devoid of any merit.

5. The workman has filed rejoinder; wherein apart from reiterating its averments already made in the statement of claim, he has submitted that ASI is well covered under definition of 'industry' in view of law laid down by the Hon'ble Apex Court in Bangalore Water Supply case.

6. The parties filed documentary evidence in support of their respective pleadings. The workman has examined himself; whereas the management has examined Shri Munajjar Ali, Asstt. Conservator, to corroborate their case. The parties cross-examined each others' witnesses and availed opportunity to forward oral arguments. The parties were also granted opportunity to file written submission; whereupon the workman filed written submissions; whereas the management did not file any written submissions.

7. Heard arguments of the representatives of the both the parties and perused entire material available on file.

8. The authorized representative of the union has submitted that the opposite party management, engages daily rated/casual employees for work of maintenance of monuments, which is a perennial nature of work; and the workman has been engaged as such by the opposite party management; who worked with the management for 12 long years; but his services have been terminated in utter disregard to the provisions contained in Section 25 G, without non-complying with the provisions of Section 25 F of the Act. He has further submitted that the management after terminating the services of the workman has engaged other workman in his place in violation to the provisions contained in Section 25 H of the Act. He has further argued that the ASI looks after maintenance of the monuments and raises money by charging money from the visitors/tourists in form of entry tickets and the same is being utilized in upkeep of the monuments, thus, it carries out commercial activity and comes within the purview of the triple test formulated by the Constitutional Bench of Hon'ble Supreme Court in *'Bangalore Water Supply and Seveage Board etc. vs. A. Rajappa and others etc. (1978) 2 SCC 213'*. The learned counsel has also submitted that the workman is also entitled for consideration for grant of temporary status in terms of OM No. 51016/2/90/EST.(C) dated 10.09.1993. He has relied upon:

(i) *Gopal Krishnaji Ketkar vs Mohamed Haji Latif & others AIR 1968 SC 1413.*

(ii) *Hon'ble High Court, Allahabad in WP. C No. 20486 of 2013 Union of India thru. Its Secrey. Culture & another vs Surendra Singh Rashtriya Adhayaksha INTUC & another decided on 14.03.2019.*

(iii) *State vs. Harchad 2001 (90) FLR 744 (Raj)*

(iv) *Bank of Baroda vs Ghemarbhai Harjibhai Rabari 2005 (105) FLR 383 (SC).*

(v) *Harjinder Singh vs Punjab State Warehousing Corporation 2010 (2) LLN 14 (SC).*

(vi) *Samishta Dube, Appellant vs. City Board, Etawah & another, 1999 LAB. I.C. 1125 (SC).*

(vii) *Anavali Kshetirya Gramin Bank vs The Presiding Officer, Central Industrial Tribunal, Jaipur 7 others 2002 (930 FLR 79 (Raj).*

(viii) *Kuldeep Singh vs General Manager, Instrument Design Development & Facilities Centre & another (2011) 2 SCC (L&S) 524.*

(ix) *Sriram Industrial Enterprises Ltd. vs Mahak Singh & others (2007) 1 SCC (L&S) 961.*

(x) *Maharashtra State Road Transport Corporation & another vs Casteribe Rajya Parivahan Karmchari Sanghatana (2009) 2 SCC (L&S) 513.*

11. In rebuttal, the authorized representative has argued that the establishment of ASI is not an 'industry' as it carries out sovereign function and further that the workmen concerned have never been appointed by the management of ASI rather work had been taken from them in peak season as and when required, thus, they never completed 240 days of continuous working and therefore, they were not entitled for the benefits of provisions contained in Section 25 F of the Act. It was further submitted that the maintenance of monuments is temporary and seasonal work is required and the same is not perennial in nature thus there is no need to appoint regular staff for carrying out such casual nature of work; moreover, it extends only so long as funds exist for maintenance. The learned counsel also submitted that the seniority list filed by the workman is of no avail being too old.

12. I have given my thoughtful consideration to the rival contentions of the authorized representatives of the parties and scanned entire evidence on record.

13 It is the case of the workman that he has been engaged by the opposite party ASI from 10.07.89 to 01.08.2002 and terminated his services in violation to the provisions contained in Section 25 F & G; moreover, the management of ASI has engaged other new workman after disengaging him, in violation of the provisions contained in Section 25 H of the Industrial Disputes Act, 1947. It has also been pleaded that the workmen were engaged for carrying out maintenance of monuments, which is a perennial nature of work; hence, the management ought to have re-engaged him on the basis of his seniority before engaging new workmen; but the management failed to do so. The workman's union has also stressed that the ASI is an 'industry' within the provisions of Section 2 (j) as it earns money by means of tickets from the visitors and tourists (Indians as well as foreigners). Likewise, it is also the case of the workman that the management did not consider his candidature for grant of temporary status in terms of OM No. 51016/2/90/EST.(C) dated 10.09.1993.

14. Per contra, the main contention of the opposite party is that the establishment of ASI is not an industry and the work carried out by the department does not come within the purview of commercial activity. Further, it has heavily relied on the fact that the workmen has not worked for 240 days continuously in any calander year and accordingly, compliance of provisions of Section 25 F was not necessary while terminating the services of the workman who was engaged casually as and when their services were required for maintaining the monuments.

15. After going through the rival contentions of the parties it becomes apparent that before entering into the merit of the case this Tribunal has to decide as to whether the opposite party is an 'industry' or not within the meaning of the Section 2 (j) of the Act. In this regard the workman has relied on verdict of Hon'ble Apex Court in *Bangalore Water Supply & Sewerage Board etc. vs. A Rajappa & others* case; wherein it has been observed that

"absence of profit motive on gainful objective is irrelevant, be the venture in the public, joint, private or other sector."

Hon'ble Apex Court has further observed that:

"Where (i) systematic activity (ii) organized by co-operation between employer and employee (the direct and substantial element is commercial (iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religions but inclusive of material things or services geared to celestial bliss i.e. making on a large scale Prasad or food) prima facie, there is an industry in that enterprise."

It is well known that the Archeological Survey of India is indulged in upkeep of the ancient monuments in order to preserve the cultural heritage of this country. For achieving this aim the ASI is being funded by the Government of India and it most of the times charges entry fee from the visitors, which is being utilized for the maintenance and upkeep of the monuments and its gardens etc. The workman's union has contended that the work carried out by the ASI is similar to CPWD and PWD, which are industry within the purview of the Act. Also, it has indicated that the nature of work carried out by ASI qualifies the triple test, formulated by Hon'ble Apex Court in *Bangalore Water Supply* case. Thus, in view of facts and circumstances of the case and above legal prepositions, I am of considered opinion that ASI is at par with the CPWD, PWD and other municipalities, which are covered under Industrial Dispute. Also, Hon'ble High Court, Allahabad in *WP. C No. 20486 of 2013 Union of India thru. Its Secrey. Culture & another vs Surendra Singh Rashtriya Adhayaksha INTUC & another* decided on 14.03.2019 has held that the ASI is industry within the definition of 'industry' as provided u/s 2 (j) of the Act.

Accordingly, in vide of the discussions made hereinabove and law relied upon, I come to the conclusion that the opposite party is an 'industry' within the provisions of Section 2 (j) of the Industrial Disputes Act, 1947.

16 It was the case of the workman that he had been working with the management of the ASI and his services have been retrenched by the management without any rhyme or reason in violation to the provisions contained in Section 25 F & G of the Act and also that after his illegal retrenchment the management has not bothered to re-engage him; rather the management has engaged other new workmen in violation to the provisions of Section 25 H of the I.D. Act, 1947. The workman in his evidence has stated on oath that the management has not re-engaged the retrenched workmen on the basis of their seniority but has engaged fresh workmen in his place viz. Mala Singh, Aslam, Mobeen, Akhil Pratap; and the employees engaged after him are still working and have been granted temporary status by the management of ASI. It has been further submitted that the Tribunal has directed the management to file muster rolls and seniority list to substantiate their version regarding continuous working; but the management neither filed the muster roll of concerned workmen nor the seniority list; nor let him or his authorized representative inspect the documents even after specific directions of the Tribunal in this regard. It is also relevant to mention that there is no cross-examination on the point. However, when the authorized representative of the management during cross-examination suggested the workman that he had worked w.e.f. September, 1998 to March, 2002 and not w.e.f. 10.07.1989, the workman answered that he worked w.e.f. 10.07.1989.

17. Per contra, the management's case is that the work performed by the workmen is not of perennial nature but intermittent and casual. The workmen were engaged as per need; and accordingly, the workmen never completed 240 days of working in any calendar year. In cross-examination the management witness accepted that the daily wagers are being engaged as per need for conservation of the monuments and they are accordingly, engaged on muster roll and they are being paid at the end of the month according to their working days. He further stated that no seniority list is being maintained in respect of daily wagers; however he admitted that paper No. 4/71 to 4/81, which is seniority list of daily wagers pertain to their department which was related to the regularization of the temporary status employees. He also admitted that his department could not file seniority list and muster roll in respect of workmen; however the same was made available to the workman for inspection. The management witness during cross-examination stated that he could not state that when the workman was terminated in 2002 then at that time how may workmen on muster roll were engaged in Agra Circle. He also stated that he has no knowledge that how many workmen worked in different monuments from 2002 till date as there are as many as 28-30 districts and approximately 400 monuments in Agra Circle. The management witness later on admitted that the work is taken on muster roll even today and is carried on in Fatehpur Sikari. He stated that the department never invites any workman through letter for work; rather notice is being affixed on the notice board relating to work. He further stated that information is being displayed on the notice board and is also published in the newspapers.

18. The workman has submitted that the workman had prayed this Tribunal to summon the muster rolls from the management; and accordingly, the management was ordered to file muster rolls vide order dated 04.04.2005. In this regard the parties have allegation and counter allegations on each other; but the core issue is that when the management had been directed to file the muster rolls in respect of the workman then the management was duty bound to file the same and in absence thereof an adverse inference could easily be drawn against the management of ASI. Learned authorized representative of the management submits that the workman/his authorized representative never inspected the record in the management's office while refuting it the learned authorized representative for the workman alleged that the relevant records were never made available for inspection, neither produced before the Court.

The management witness has shown his inability of having any knowledge about any seniority list of the casual workers; but in the compliance of provisions contained in Section 25 G & H of the Industrial Disputes Act, 1947 the same was required to be maintained by the management. Hence, in view of above, it is unbelievable that the management did not maintain any seniority list in respect of casual/daily labourers and it is relevant to note that the management did not file such seniority list with a view to defeat the claim of the workman.

19. Admittedly, the workmen were engaged to carry out casual nature of work on daily wage basis on muster roll, this fact has been admitted by the management in its written statement; while it has simultaneously denied the continuous engagement of the workman; but its denial is not specific as it was required to come forward with the details of the working days. The management has submitted that the burden of proof that the claimant was in employment of a Management primarily lies on workman who claims to be a workman by producing vouchers of payment of salary etc.

20. The workman has come forward with a case that the workman was engaged w.e.f. 10.07.89 and had been terminated illegally w.e.f. 01.08.2002 and after his retrenchment the management did not bother to re-engage him though it engaged other fresh faces. The workman in order to substantiate its contention, summoned the details from the management; but it failed to file the same.

Hon'ble Gujrat High Court in *Director, Fisheries Terminal Division vs. Bhakubhai Meghajibhai Chavda 2010 AIR SCW 542*; has observed that for proving 240 days' continuous working, the workman would have difficulty in having access to all official documents, muster rolls etc., in connection with his service, therefore, the burden of proof shifts to the employer to prove that he did not complete 240 days of service in requisite period to constitute continuous service. Hence, in view of above case law, an adverse inference can easily be drawn against the management. The management was ought to come forward with specific case as to when the workmen worked with it, with substantial proof thereof.

21. The provisions contained in Section 25 H of the Industrial Disputes Act, 1947 read as under:

> ***25 H. – Re-employment of retrenched workmen. – Where any workmen are retrenched, and the employer proposes to take into his employ any persons, he shall, in such manner as may be prescribed, give an opportunity to the retrenched workmen who are citizens of India to offer themselves for re-employment, and such retrenched workmen who offer themselves for re-employment shall have preference over other persons."***

A bare perusal of the above section indicates that the said Section provides for re-employment of retrenched workmen. It says that when the employer proposes to take into his employment any person, he shall, in such manner as may be prescribed, give an opportunity to the retrenched workmen who are citizens of India to offer themselves for re-employment shall have preference over other persons. Rule 77 and 78 of the Industrial Deputes (Central) Rules, 1957 prescribe the mode of re-employment. Rule 77 requires maintenance of seniority list of all workmen in a particular category from which retrenchment is contemplated arranged according to seniority of their services in that category and publication of that list. Rule 78 prescribes the mode of reemployment of retrenched workmen. The requirement of Rule 78 is of notice in the manner prescribed to every one of all the retrenched workmen eligible to be considered for re-employment.

Rule 77 requires the employer to maintain a seniority list of workmen in that particular category from which retrenchment is contemplated arranged according to the seniority of their service. The category of workmen to whom section 25-F applies is distinct from those to whom it is inapplicable. There is no practical difficulty in maintenance of seniority list being, Rule 77, therefore, does not present any difficulty. Rule 78 speaks of retrenched workmen eligible to be considered for filling in the vacancies and here also the distinction based on the category of workmen can be maintained because those falling in the category of section 25 F are entitled to be placed higher than those who do not fall in that category. No doubt, it is true that persons who have been retrenched after a longer period of service which places them higher in the seniority list are entitled to be considered for re-employment earlier than those placed lower because of a lesser period of service. In this manner a workman can claim consideration for re-employment only if an eligible workman above him in the seniority list is not available. Application of section 25 H to the other retrenched workmen not covered by section 25-F does not, in any manner, prejudice those covered by section 25-F because the question of consideration of any retrenched workman not covered by section 25 F is available for re-employment. There

is, thus, no reason to curtail the ordinary meaning of 'retrenched workmen' in section 25-H because of Rules 77 and 78, even assuming the Rules framed under the Act could have that effect.

The distinction between section 25-F and 25-G of the Act was recently in *Bhogpur Co-op. Sugar Mills Ltd. v. Harmesh Kumar 2006 (111) FLR 1202 (SC)*, in the following words:

> ***"We are not oblivious of the distinction in regard to the legality or the order of termination in a case where section 25 F thereof applies on the other. Whereas in a case where section 25 F of the Act applies the workman is bound to prove that he had been in continues service of 240 days during twelve months preceding the order of termination, in a case where he invokes the provisions or sections 25-G and 25-H thereof he may not have to establish the said fact.***

Hon'ble Rajasthan High Court in *State vs. Harchad 2011 (90) 744* has observe as under:

> ***"5. In Samistha Dube v. City Board, Itava, the Hon'ble Supreme Court has held that even if the provision of Section 25 (F) had not been violated and the workman had not completed 240 days in a calendar year counting backward from the date of termination and there is a violation of the provisions of Section 25 (G) or 25 (h), the termination becomes bad. More so, in Vikaramaditya Pande v. State of U.P., the Apex Court has held that in case the retrenchment/termination wages with continuity of service unless employer satisfied the labour court that he had gainfully been employer somewhere else. However, in the facts and circumstances of the case, the court can award a lesser amount for back-wages."***

Further, Hon'ble Rajasthan High Court in *Anavali Kshetrya Gramin Bank vs. the Presiding Officer, Central Industrial Tribunal, Jaipur & others 2002 (93) FLR 79* held that:

> ***"In the case of Oriental Bank of Commerce v. Presiding Officer, Central government Industrial Tribunal and another, it was held that Sections 25-G and 25H are totally independent provisions though both of them deal with the retrenchment. Section 25G is a general provision covering all cases of retrenchment providing to the workman the minimal safeguard of the observance of the principle of last come first go in the matter of effecting retrenchment. It was further held that a person who had completed the service of statutory period or not, he is entitled to the benefits mentioned in Sections 25G and 25H of the Act and as such if the retrenchment is to be made even of a person who has worked for less than the statutory period it has to be one the basis of "first come last go" and when the management re-employs certain persons, the offer of re-employment has to be given to those who have been retrenched if they are willing to work."***

22. Admittedly, the management of ASI engaged the workman to take their services for maintenance of monuments, which is perennial in nature. This fact is corroborated by their own witness who stated that upkeep and maintenance of the monuments is being done by engaging the labourers on daily wage basis on muster roll and he further stated that there are approximately as many as 400 monuments in Agra Circle, then it could be well understood that to look after the monuments at Agra, Fatehpur Sikari, Sikandra the management of ASI would be in need of large number of daily wagers and this maintenance cannot be said of seasonal in nature as this is never ending process and continues round the year. Then management cannot say that they engaged the workmen as per availability of work on casual basis. Further, even if the argument of the management is accepted that the workman had been terminated on non-availability of work and he was not entitled for benefits of Section 25 F, even then as per provisions contained in Section 25 H of the I.D. Act, 1947 and Rule 78 of the I.D. Act, 1957, on re-availability of work, the management was ought to have re-engaged those workmen who had already worked with it as required by the section 25 H of the Industrial Disputes Act, 1947.

There is no iota of evidence from the management regarding this fact that the workman was not covered by the provisions of Section 25 F and the burden to prove that the workman did not work for 240 days in the year concerned was on the management, particularly when the workman summoned the muster roll and the management did not file muster roll; rather it chose to get inspection of some muster rolls. Hon'ble Gujrat High Court in *Director, Fisheries Terminal Division vs. Bhakubhai Meghajibhai Chavda 2010 AIR SCW 542*; has observed that for proving 240 days' continuous working, the workman would have difficulty in having access to all official documents, muster rolls etc., in connection with his service, therefore, the burden of proof shifts to the employer to prove that he did not complete 240 days of service in requisite period to constitute continuous service.

Thus, in view of the principles propounded by Hon'ble Apex Court and Hon'ble High Court in the aforesaid citations, the management failed to prove that the workman was not entitled for protection of Section 25 F; and also that it has endeavoured sincerely to re-engage those workmen who were retrenched due to non-availability of work as envisaged by the Rule 78 of the I.D. Act (Central), 1957.

23. The case of the workman is that he was retrenched and thereafter was not re-engaged whereas other new faces were introduced into the management to carry out the same work. The management witness has shown his inability to certify this fact; but even then this could not be easily accepted that the all those new workmen, whose names have been taken by the workman during his examination/cross-examination were not engaged, particularly in the absence of any evidence in rebuttal by the management. The management has focused its defence on the issue that the workman did not complete 240 days working to get the benefits of section 25 F; but the case of the workman is entirely different, which indicates that the management, by not re-engaging the workman on availability of work and engaging new faces, violated the provisions contained in Section 25 H and for attracting the provisions of section 25 H the workman need not establish that he had been in continuous service of 240 days during twelve months preceding the order of termination. Thus, the management utterly failed to defend the case on proper lines by not producing any evidence with regard to the fact that it made efforts to re-engage the previously retrenched workmen first and on their not turning up, it went for to engage the new faces. On the contrary the management witness in his cross-examination stated that "हम कभी किसी श्रमिक को कार्य पर लगाने हेतु पत्र नहीं देते".

24. Thus, in view of the discussions made above, I am of the considered opinion that the management of ASI did not comply with the provisions of Section 25 H of the I.D. Act, 1947 by not re-engaging the workman after his retrenchment and employing new workmen. Hence, I come to the conclusion that the action of the management of the ASI, Agra in not re-engaging the workman after his retrenchment was unjustified and resultantly, the workman is entitled for reinstatement. As regard entitlement of back wages, it is admitted that he was engaged as daily wager and was working as such i.e. was not regular employee, therefore, he has no right for back wages etc. in view of Rule 'no work no pay'; but he shall be entitled for continuity of service and other consequential benefits, as per Rules. Further, the management is directed to consider the claim of the workman for grant of temporary status etc. in terms of provisions contained in the OM No. 51016/2/90/EST. (C) dated 10.09.1993.

25. Award as above.

LUCKNOW

26th August, 2019

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 5 सितम्बर, 2019

का.आ. 1670—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भाखड़ा ब्यास प्रबंधन बोर्ड, पानीपत के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण–सह-श्रम न्यायालय, नंबर 2, नई दिल्ली के पंचाट (संदर्भ संख्या 79/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.08.2019 को प्राप्त हुआ था।

[सं. एल–42012/175/2005–आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 5th September, 2019

S.O. 1670.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 79/2006) of the Cent.Govt.Indus.Tribunal-cum-Labour Court No. 2, New Delhi as shown in the Annexure, in the industrial dispute between the Management of Bhakra Beas Management Board, Panipat and their workmen, received by the Central Government on 27.08.2019.

[No. L-42012/175/2005-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

Present: Smt. Pranita Mohanty, Presiding Officer, C.G.I.T.-Cum-Labour Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 79/2006

Date of Passing Award- 22nd July, 2019.

Between:

Smt. Bimla Devi,
W/o Shri Gopi,
Vill. Prem Nagar,
Bhiwani. … Workman

Versus

The Superintending Engineer,
Bhakra Beas Management Board,
Panipat. …Management

Appearances:-

Shri Saurabh Rastogi, (A/R) : For the Workman

Shri R.K. Ruhil, (A/R) : For the Management

AWARD

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of Bhakhra Beas Management Board, and its workman/claimant herein, under clause (d) of sub section (1)and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L- 42012/175/2005 (IR(CM-II) dated 26.09.2006 to this tribunal for adjudication to the following effect.

> "Whether the action of the management of the Bhakhra Beas Management Board, Panipat in terminating the services of their ex-worker Smt. Bimla Devi w.e.f. 09.04.2004 is legal and justified? If not, to what relief she is entitled to?''

The claimant filed her claim statement stating that in July 1990 she was posted in the office of the respondent No.2 as a sweeper/Safai Karamchari on a monthly salary of Rs. 1600/- and worked till 09.04.2004. The work she was discharging was of permanent nature and at no point of time the employer had shown dissatisfaction on her work. On 09.04.2004 when she reported for duty as usual, she was not allowed to do the duty and it was told that her service is no longer required and the same stands terminated. Though the workman had worked continuously for a period of 14 years and had completed 240 days of work in the calendar years and in the preceding calendar year of her termination the management did not consider the same and while terminating her service no termination notice, notice pay, and retrenchment compensation was paid. Her service was terminated to adjust some favourable persons of the management. The oral request of the claimant when did not yield any result, she served a demand notice dated 19.07.2004 on the management demanding reinstatement to duty with full back wage, continuity of service and other service benefits. Though notice was received by the management no action was taken. Finding no other way the claimant/workman raised a dispute before the Labour Commissioner Faridabad and a conciliation proceeding was taken up. The management participated but became rigid not to absorb the workman in service. Conciliation since failed the Labour Commissioner forwarded the failure report to the Appropriate Government under intimation workman. The Appropriate Government made this reference for adjudication.

The management being noticed appeared and filed written statement admitting that the claimant was working as a part time sweeper for the management for a limited period and her claim that she was working against the permanent post is false. The management also took a stand that she was never working as a Safai Sevak in the office of SDO T/L sub division, BBMB Prem Nagar Bhiwani Haryana and her engagement was in the office of SDO carrier, C.C sub division B.B.M.B Prem Nagar Bhiwani. The later having not been impleaded as a party the proceeding suffers from non joinder and liable to be dismissed. The other stand of the management is that the Hon'ble High Court of Delhi has passed an order directing the workman to implead proper parties which has not been done and the said non compliance makes the proceeding liable for dismissal on account of mis-joinder. The management has also pleaded that the claimant was

engaged as a part time sweeper only at DC rate against sanctioned post of part time sweeper and when a regular Safai Sevak was appointed in the sub division w.e.f. 01.07.2004, the service of the part time sweeper was brought to an end. She was never terminated as a there exists no employer employee relationship. The management has further stated that the workman is now working in the office of SDO carrier CC sub division BBMB Prem Nagar and on that account the proceeding is not maintainable. The management has also denied the stand of the claimant that she has completed working for more than 240 days in the calendar year preceding to her termination.

The workman filed rejoinder to the written statement of the management wherein it admitted about her reinstatement in service by the management.

In view of the pleadings of the parties and looking into reference schedule received from the Appropriate Government the points which need to be decided in this proceeding are

1. Whether the termination of the workman by the management w.e.f. 09.04.2004 is illegal.
2. To what relief the workman is entitled to.

The workman examined himself as WW1 and proved the copy of the demand notice sent to management No.1 and 2 and the grievance petition filed by her before the Labour Commissioner which has been marked as WW1/1 and WW1/2. On behalf of the management the director P and C BBMB Chandigarh was examined as MW1 and he proved the documents which include the details relating to engagement of the workman as a part time sweeper submitted by Assistant Director P and T BBMB Bhiwani, the representation submitted by the workman for engagement of her some on account of her illness and the bunch of documents in the nature of attendance register of the workman for a period between 18.01.1992 to October 2002. On the basis of this documents the management witness asserted to prove that the workman/claimant on account of her illness had left the job and on her request she has been reinstated and continuing with the work and she was a part time sweeper and working as a part time sweeper till date.

FINDINGS

Point No.1

The workman gave her statement in the court exactly in the line of the averments made in the claim statement. Her soul grievance is that the management by an oral order terminated her service on 09.04.2004 and at the time of such termination the statutory provisions of section 25-F, 25-G, of the Id Act were not followed. It is the stand of the management that no verbal or written order of terminating the service of the workman was ever passed. She was a part time sweeper and getting remuneration on daily basis. For her own illness she made written representation to the management expressing her intention to quit the job with an alternative prayer that her son be appointed to work in her place. On behalf of the management the photocopies of the representations made by the workman have been filed. Not only that on behalf of the management two other documents have been filed which are in the nature of an appeal by the coworkers for contribution offered to assist the workman in financial crisis for her illness. On the basis of these documents the management took a stand that the workman out of her free will have left the job. The management witness examined as MW1 has also stated that the workman is working at present as a part time sweeper on monthly remuneration of Rs. 1500/- w.e.f. April 2012. The workman while examining himself as WW1 has also admitted that she is now under the employment of the management w.e.f. April 2012.

That being the position the only point to be determined is whether the management had illegally terminated the service of the workman on 09.04.2004 and on account of that the workman remained unemployed till April 2012. The Ld. A/R for the workman submitted that the documents filed by the management which are the copies of the attendance register clearly shows that she had worked for more than 240 days in a calendar year and thereby deserves to be regularized in her post. The decision of the management in terminating her service is illegal and the workman is entitled to reinstatement with full back wages and other service benefits.

It is true that the copy of the attendance register of the workman which has been placed on record by the management lead to show that he had worked for more than 240 days in a calendar year preceding to the date of alleged termination. But that will not automatically make the workman entitle to reinstatement with back wages unless it is proved on evidence that the termination was by the management and in violation of the provisions of section 25-F and 25-G of the Id Act. Admittedly no order of termination was handed over to the workman. The management has taken a stand that the workman had left her job voluntarily on account of illness. The documents filed by the management which are photocopies of the attendance register shows the attendance of the workman till October 2002. Thereafter no document is available showing the attendance of the workman for work. On the contrary photocopies of 2 other letters dated 07.12.2004 and 02.09.2013 written by Deputy Director P and T Cell BBMB Bhiwani and letter dated 02.09.2013 by the same authority have been filed by the management to show that the workman was working till 01.12.2002 and thereafter since 07.12.2004 working as the Part time sweeper till the date of the letter i.e. 02.09.13. These documents taken together lead to a conclusion that to nullify the stand of the workman that he was illegally terminated the management has taken different stands at different times. The witness for the management has stated that due to her

illness the workman left the job on 27.03.2002. In the written statement it has been mentioned that her service was not terminated at any point of time. Some documents have been filed on behalf of the management which were marked as Exhibit MW2/1 and Exhibit MW2/2 this is a reply dated 20.02.2015 given by the Assistant Director P and T cell BBMB Bhiwani which contains the detail of the work done by the workman and the remuneration paid to the workman starting from 21.10.1991 to December 2014. On the basis of this the management asserted to prove that the allegation of termination and unemployment as stated by the workman are all false and she is not entitled to any relief in that regard.

Admittedly the workman is an illiterate woman who has affixed her LTI on all the papers placed on record. The management is in a dominant position for proving or disproving the facts asserted by the workman. The law is well settled that a party in possession of best evidence is duty bound to produce the same irrespective of the burden of proof. In the case of **Gopal KrishnaJi Kedkar vs. Mohhamad Haji Latif and others reported in AIR 1968 SCC 1413** Hon'ble Supreme Court came to hold that the burden of proving a fact lies with the party which possesses the best evidence. A similar view was also taken by the Hon'ble Division Bench of the Supreme Court in the case of Bal Kishan vs. Presiding Officer reported in 1996(3) SCT 548.

In this case though the management has placed some documents on record which have been marked as MW2/1 and MW2/2 to show that the workman is continuing in work since 1991 till 2014, no other document has been submitted to fortify the same. The documents referred above are some letter written by the Assistant Director to the Senior Executive Engineer. The management could have produced the detail attendance register and documents relating to payment of remuneration to the workman during this period. In absence of such documents the tribunal feels it proper to accept the oral testimony of the claimant that he started working for the management in July 1990 as a part time sweeper and was terminated on 09.04.2004 and again in April 2012 the management reinstated her for work on a monthly salary of Rs. 1500/-. The workman was cross examined by the management but nothing has been elicited to discredit her testimony. Hence, taking into consideration the oral and documentary evidence adduced by both the party it is concluded that the workman's employment as a part time sweeper was terminated by the management on an oral order w.e.f. 09.04.2004 and after raising these dispute she was again taken to work in April 2012 and continuing till date at a monthly remuneration of Rs. 1500/-. This point is accordingly answered in favour of the workman.

POINT No. 2

The workman has stated that during the period between 09.04.2004 to March 2012 she remained unemployed without any gainful employment. It is also evident from the evidence of the workman that at the time of their termination no notice, notice pay, or retrenchment compensation was paid to her. The burden always lies on the management to prove the gainful employment of the workman during the period of termination. In this case no such evidence has been adduced by the management. at one point of time though the management has claimed about the continuous of engagement of the workman for the management at other point of time it has been stated that she left the job voluntarily. Thus, the totality of the evidence it is held that the workman her unemployment during the period 09.04.2004 to March 2012 is entitled to compensation since the management has not laid any evidence to prove the compliance of section 25-F and 25-G of the ID Act. But at the same time this tribunal keeping in view the principle of no work no pay feels it prudent to direct for a compensation to be paid instead of monthly remuneration to the workman. The tribunal thus, directs that a lump-sum amount of Rs. 50000/- shall be paid to the workman for the loss she had suffered which would meet the ends of justice in the circumstances.

The Ld. A/R for the management argued that in the reference received from the Appropriate Government and the claim statement filed by the workman the sub divisional officer/ Engineer, T/L Sub Division BBMB Prem Nagar Bhiwani made a party. But in fact the workman was working in the office of Sub Divisional Officer C.C Division BBMB Bhiwani. The later is the proper party and for misjoinder and non joinder of party the proceeding is liable to be dismissed. He drew the attention to the order of the Hon'ble High Court of Delhi passed in WPC No. 5718 of 2010 wherein the Hon'ble High Court while setting aside the no claim award directed for impleadition of the necessary parties. Perusal of the said order lead to a conclusion that before the Hon'ble Court the management had taken a stand that, the workman was in the employment of SDO CC Sub Division. Thus, the Hon'ble court directed for impleading the said SDO as the party. But the fact remained in the claim petition the SDO CC Division has not been made a party and the superintending engineer who is administratively superior to the SDO has been made a party. The purpose for adding the proper party is always with an objective of complete and effective adjudication of the matter. Here in this case though the SDO CC Sub Division has not been made a party, it is held that the adjudication cannot remain incomplete for the presence of superintending Engineer in the proceeding. It is felt that whatever direction would be given the same shall be properly executed by the Superintending Engineer. The objection in this regard as a raised by the management is held without merit and not accepted. Hence, ordered.

ORDER

The claim be and the same is answered in favour of the workman. In view of the admitted facts that the workman has already been reinstated to service w.e.f. April 2012 and continuing as such it is directed that the management shall pay Rs. 50000/- as a lumpsum compensation to the workman for the intervening period of employment between 09.04.2004 to March 2012. This amount shall be paid by the management to the workman within 3 months from the date when the award would become enforceable without interest. If management would fail to pay the amount within the time stipulation the amount shall carry interest @ 12% per annum from the date when it becomes due till the final payment is made. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & Corrected by me.

PRANITA MOHANTY, Presiding Officer

22nd July, 2019

नई दिल्ली, 5 सितम्बर, 2019

का. आ. 1671.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भाखड़ा ब्यास प्रबंधन बोर्ड, पानीपत के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण–सह-श्रम न्यायालय, नंबर 2, नई दिल्ली के पंचाट (संदर्भ संख्या 80/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.08.2019 को प्राप्त हुआ था।

[सं. एल–42012/176/2005–आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 5th September, 2019

S.O. 1671.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 80/2006) of the Cent.Govt.Indus.Tribunal-cum-Labour Court No. 2, New Delhi as shown in the Annexure, in the industrial dispute between the Management of Bhakra Beas Management Board, Panipat and their workmen, received by the Central Government on 27.08.2019.

[No. L-42012/176/2005-IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

Present: Smt. Pranita Mohanty, Presiding Officer, C.G.I.T.-Cum-Labour Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 80/2006

Date of Passing Award- 23rd July, 2019

Between:

Smt. Shakuntla,
W/o Shri Har Lal,
Vill. Prem Nagar,
Bhiwani … Workman

Versus

The Superintending Engineer,
Bhakra Beas Management Board,
Panipat.

…Management

Appearances:-

Shri Saurabh Rastogi, (A/R) : For the Workman

Shri R.K. Ruhil, (A/R) : For the Management

AWARD

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of Bhakhra Beas Management Board, and its workman/claimant herein, under clause (d) of sub section (1)and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L- 42012/176/2005 (IR(CM-II) dated 26.09.2006 to this tribunal for adjudication to the following effect.

> "Whether the action of the management of the Bhakhra Beas Management Board, Panipat in terminating the services of their workman Smt. Shakuntla w.e.f. 01.07.2004 is legal and justified? If not, to what relief she is entitled to?''

The claimant filed her claim statement stating that in July 1990 she was posted in the office of the respondent No.2 as a sweeper/Safai Karamchari on a monthly salary of Rs. 1600/- and worked till 01.07.2004. The work she was discharging was of permanent nature and at no point of time the employer had shown dissatisfaction on her work. On 01.07.2004 when she reported for duty as usual, the management did not allowed her to do the duty and it was told that her service is no longer required and the same stands terminated. Though the workman had worked continuously for a period of 14 years and had completed 240 days of work in the calendar years and in the preceding calendar year of her termination the management did not consider the same and while terminating her service no termination notice, notice pay, and retrenchment compensation was paid. Her service was terminated to adjust some favourable persons of the management. The oral request of the claimant when did not yield any result, she served a demand notice dated 19.07.2004 on the management demanding reinstatement to duty with full back wage, continuity of service and other service benefits. Though notice was received by the management no action was taken. Finding no other way the claimant/workman raised a dispute before the Labour Commissioner Faridabad and a conciliation proceeding was taken up. The management participated but became rigid not to absorb the workman in service. Conciliation since failed the Labour Commissioner forwarded the failure report to the Appropriate Government under intimation workman. The Appropriate Government made this reference for adjudication.

The management being noticed appeared and filed written statement admitting that the claimant was working as a part time sweeper for the management for a limited period and her claim that she was working against the permanent post is false. The management also took a stand that she was never working as a Safai Sevak in the office of SDO T/L sub division, BBMB Prem Nagar Bhiwani Haryana and her engagement was in the office of SDO carrier, C.C sub division B.B.M.B Prem Nagar Bhiwani. The later having not been impleaded as a party the proceeding suffers from non joinder and liable to be dismissed. The other stand of the management is that the Hon'ble High Court of Delhi has passed an order directing the workman to implead proper parties which has not been done and the said non compliance makes the proceeding liable for dismissal on account of mis-joinder. The management has also pleaded that the claimant was engaged as a part time sweeper only at DC rate against sanctioned post of part time sweeper and when a regular Safai Sevak was appointed in the sub division w.e.f. 01.07.2004, the service of the part time sweeper was brought to an end. She was never terminated as a there exists no employer employee relationship. The management has also denied the stand of the claimant that she has completed working for more than 240 days in the calendar year preceding to her termination.

The workman filed rejoinder to the written statement of the management. In view of the pleadings of the parties and looking into reference schedule received from the Appropriate Government the points which need to be decided in this proceeding are:-

1. Whether the termination of the workman by the management w.e.f. 01.07.2004 is illegal.
2. To what relief the workman is entitled to.

The workman examined himself as WW1 and proved the copy of the demand notice sent to management No.1 and 2 and the grievance petition filed by her before the Labour Commissioner which has been marked as WW1/1 and WW1/2. On behalf of the management the Engineer Prem Kumar Kochar testified as MW1 but filed no document however the management witness asserted to prove that the workman/claimant was not working against any permanent post and her duty was fixed hours. When a regular safai Sevak was appointed w.e.f. 01.07.2004 the service of part time sweeper was terminated and she not being a full time employee or daily wager the provisions of section 25-F and G of the Id Act was not required to be complied.

FINDINGS

POINT No. 1

The workman gave her statement in the court exactly in the line of the averments made in the claim statement. Her soul grievance is that the management by an oral order terminated her service on 01.07.2004 and at the time of such termination the statutory provisions of section 25-F, 25-G, of the ID Act were not followed. It is the stand of the management that no verbal or written order of termination the service of the workman was ever passed. She was a part time sweeper and getting remuneration on daily basis.

That being the position the only point to be determined is whether the management had illegally terminated the service of the workman on 01.07.2004 and on account of that the workman remained unemployed till April 2012. The Ld. A/R for the workman submitted that the management has not filed any document to disprove the claim of the workman that he had worked for 240 days and more during the preceding calendar year of her termination. He also argued that the documents like attendance register, wage payment register etc which could have thrown light on the issue are in the possession of the management and the management is guilty of suppressing those documents. In such a situation the oral evidence of the workman is required to be accepted by the Tribunal to hold that the decision of the management in terminating the service of the workman is illegal and the workman is entitled to reinstatement with full back wages and other service benefits.

It is true that the copy of the attendance register and all other documents relating to payment of remuneration to her which could shown that he had worked for 240 days in a calendar year has not been placed on record. At this point the Ld. A/R for the management submitted that the burden is on the workman to prove that he was working for more than 240 days in the preceding calendar year and the claimant/workman has failed to discharge his burden. But it should be borne in mind that the workman of this proceeding is an illiterate woman who has affixed her LTI on all the papers placed on record. The management is in a dominant position for proving or disproving the facts asserted by the workman. The law is well settled that a party in possession of best evidence is duty bound to produce the same irrespective of the burden of prove. In the case of **Gopal Krishnaji Kedkar vs. Mohhamad Haji Latif and others reported in AIR 1968 SCC 1413** Hon'ble Supreme Court came to hold that the burden of proving a fact lies with the party which possesses the best evidence. A similar view was also taken by the Hon'ble Division Bench of the Supreme Court in the case of **Bal Kishan vs. Presiding Officer reported in 1996 (3) SCT 548**. Thus, on consideration of the oral evidence of the claimant in the light of the above said decision and the fact that management failed to produce the relevant documents relating to the work done by the claimant it is held that the workman had worked for more than 240 days in the calendar year preceding to the date of her alleged termination.

The Ld. A/R for the management submitted that rendering of 240 days of work in a calendar year will not automatically make the workman entitle to a reinstatement and back wages unless it is proved on evidence that the termination was in violation of the provisions of section 25-F and 25-G of the ID Act. Admittedly no order of termination was handed over to the workman. The management has taken a stand that the workman was a part time sweeper rendering service on need basis and even if it is held that she had worked for 240 days her service cannot be regularized and she cannot be reinstated. In support of the contention reliance has been placed in the case of **Secretary to Government, School Education Department, Chennai vs. Thiru R. Govindaswamy & Ors. Civil Appeal No. 2726-2729 of 2014** in which the Hon'ble Supreme Court while retreating the judgment of Hon'ble Supreme Court in the case of **State of Rajasthan and others vs. Dayalal and others reported in AIR 2011 SC 1193** have held:-

Part-time employees are not entitled to seek regularization as they are not working against any sanctioned posts. There cannot be a direction for absorption, regularization or permanent continuance of part-time temporary employees.

On the contrary the Ld. A/R for the workman submitted that for the 240 days of work done in a calendar year when the workman was legally entitled for regularization the management illegally terminated her job. But from the pleadings it clearly appears that the service of the part time sweeper was discontinued on account of posting of a full time sweeper and in view of the principle decided by the Hon'ble Apex Court in the case of Secretary to Government School Education referred supra, the claimant being a part time employee is not entitled to regularization.

In this case the witness for the management during cross-examination had admitted that no letter of termination was issued nor any retrenchment compensation was paid. Thus, from the totality of the evidence it is held that the workman was made a victim of unfair labour practice for non compliance of the provisions of section 25-F, and 25-G of the ID Act. But at the same time this tribunal keeping in view that the workman cannot be reinstated to service nor her service can be regularized feels it proper to direct for a compensation to be paid to her. This tribunal thus, directs that a lumpsum amount of Rs. 30,000/- shall be paid to the workman by the management for the loss she had suffered and the ordeal of litigation she had to face for the illegal act of the management.

POINT No. 2

The workman has stated that during the period between 09.04.2004 to March 2012 she remained unemployed without any gainful employment. It is also evident from the evidence of the workman that at the time of their termination no notice, notice pay, or retrenchment compensation was paid to her. The burden always lies on the management to prove the gainful employment of the workman during the period of termination. In this case no such evidence has been adduced by the management. at one point of time though the management has claimed about the continuous of engagement of the workman for the management at other point of time it has been stated that she left the job voluntarily. Thus, the totality of the evidence it is held that the workman her unemployment during the period 09.04.2004 to March 2012 is entitled to compensation since the management has not laid any evidence to prove the compliance of section 25-F and 25-G of the ID Act. But at the same time this tribunal keeping in view the principle of no work no pay feels it prudent to direct for a compensation to be paid instead of monthly remuneration to the workman. The tribunal thus, directs that a lump-sum amount of Rs. 50000/- shall be paid to the workman for the loss she had suffered which would meet the ends of justice in the circumstances.

The Ld. A/R for the management argued that in the reference received from the Appropriate Government and the claim statement filed by the workman the sub divisional officer/ Engineer, T/L Sub Division BBMB Prem Nagar Bhiwani made a party. But in fact the workman was working in the office of Sub Divisional Officer C.C Division BBMB Bhiwani. The later is the proper party and for misjoinder and non joinder of party the proceeding is liable to be dismissed. He drew the attention to the order of the Hon'ble High Court of Delhi passed in WPC No. 5837 of 2010 wherein the Hon'ble High Court while setting aside the no claim award directed for impleadition of the necessary parties. Perusal of the said order lead to a conclusion that before the Hon'ble Court the management had taken a stand that the workman was in the employment of SDO CC Sub Division. Thus, the Hon'ble court directed for impleading the said SDO as the party. But the fact remained in the claim petition the SDO CC Division has not been made a party and the superintending engineer who is administratively superior to the SDO has been made a party. The purpose for adding the proper party is always with an objective of complete and effective adjudication of the matter. Here in this case though the SDO CC Sub Division has not been made a party, it is held that the adjudication cannot remain incomplete for the presence of superintending Engineer in the proceeding. It is felt that whatever direction would be given the same shall be properly executed by the Superintending Engineer. The objection in this regard as a raised by the management is held without merit and not accepted. Hence, ordered.

ORDER

The claim be and the same is answered in favour of the workman. In view of the admitted facts, it is directed that the management shall pay Rs. 30,000/- as a lumpsum compensation to the workman for the illegal termination of her service w.e.f 01.07.2004. This amount shall be paid by the management to the workman within 3 months from the date when the award would become enforceable without interest. If management would fail to pay the amount within the time stipulation the amount shall carry interest @ 12% per annum from the date when it becomes due till the final payment is made. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & Corrected by me.

PRANITA MOHANTY, Presiding Officer

23rd July, 2019

नई दिल्ली, 5 सितम्बर, 2019

का.आ. 1672.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भाखड़ा ब्यास प्रबंधन बोर्ड, नई दिल्ली के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण–सह–श्रम न्यायालय, नंबर 1, नई दिल्ली के पंचाट (संदर्भ संख्या 152/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05.09.2019 को प्राप्त हुआ था।

[सं. एल–23012/01/2015–आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 5th September, 2019

S.O. 1672.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 152/2015) of the Cent.Govt.Indus.Tribunal-cum-Labour Court No. 1, New Delhi as shown in the Annexure, in the industrial dispute between the Management of Bhakra Beas Management Board, New Delhi and their workmen, received by the Central Government on 05.09.2019.

[No. L-23012/01/2015-IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA : PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT No. 1, NEW DELHI

ID No. 152/2015

Shri Jogi Ram Sharma
C-20, First Floor, Mansa Ram Park,
Uttam Nagar, New Delhi 110059. …Workman/Claimant

Versus

The Management of Bhakra Beas Management Board,
Old Rohtak Road,
Punjabi Bagh, New Delhi 110035 …Management

AWARD

This award shall decide a reference received from Ministry of Labour & Employment vide letter No. L-23012/01/2015-IR(CM-II) dated 1-7-2015 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(in short the Act) for adjudication of an industrial dispute, terms of which are as under: :-

> "Whether the action of the management in retiring the workman Shri Jogi Ram Sharma on 31.3.2011 on attaining the age of 58 years is legal and/or justified and to what relief in any case the workman is entitled including to what amounts and to what terminal benefits the workman is entitled and what directions are necessary in this respect ?''

2. Both the parties were put to notice. Shri Jogi Ram, claimant has filed statement of claim with the averment that he joined the services under the Management, on 17/10/1985 as Bus Conductor in the pay-scale of Rs.400- 600/- and as per rules, pay-scale of Rs.400-600/- was meant for the employees under category-III and their age of retirement is 58 years, whereas age of retirement of employees working as category-IV is 60 years. He completed 16 years' of service on 18/10/2001 but without any reason he was not granted promotional increment, thereby placing him in the pay-scale of Rs.5300-9100/- despite the fact that he sent various letters to the Management. He worked with sincerity and with no complaint whatsoever. It is pleaded that the Management had issued a circular/order dated 19/12/2007, seeking option within one month from the employees working as Bus Conductor as to whether they wish to be retained in the pay-scale of Rs.3370-6100/- (meant for category III employees), or the pay-scale of Rs.2930-5300/- (meant for employees of category-IV). But the said circular was given to him in February, 2008 and the department took his option of back date, whereby he had opted for pay scale of Rs.3370-6100/-. Again on 24/10/2008 the workman requested the Management that he be retained in category-III and be given pay-scale of Rs.5300-9100/- w.e.f. 18/10/2001 but to no response. It is also pleaded that though he was on leave from 22/3/2011 to 2/4/2011, but he was forcefully retired from service on 31/3/2011 without any prior intimation, which action of the Management is wrong and erroneous. He has prayed that Management be directed to pay him full salary for the period from 1/4/2011 to 31/3/2013 alongwith interest; to grant him pay-scale of Rs.5300-9100 w.e.f. 18/10/2001 alongwith arrears; to grant him revised retirement benefits alongwith interest and compensation of Rs.20 lakhs for financial loss and mental agony caused to him.

3. The claim has been resisted by the management who filed its written statement and took preliminary objections inter-alia that claim is time barred and is not supported with any affidavit. While denying the allegations of the claimant regarding his forceful retirement at the age of 58 years as on 31/3/2011, it has been stated that Jogi Ram/workman was appointed on regular basis as Bus Conductor. Vide Gazette Notification dated 8/10/1994 whereby BBMB class III and IV employees (Recruitment & Conditions of Service) Regulations, 1994 came into force, all the serving employees were to be governed by the said Regulations and the post of Bus Conductor is placed and treated at class III employee and date of retirement as per Punjab Civil Service Rules in respect of class III employees was 58 years, at the time of retirement of the workman Jogi Ram on 31/3/2011 and as such, the claimant was retired from service on 31/3/2011 according to the service rules and he was given all due benefits of leave encashment, GPF with interest, encashment of earned leave,

gratuity etc. for the period of his service as also 9/16 time bound promotional scales have also been given to him on time. It is alleged that the workman is not entitled for grant of advance promotional increments upto completion of 23 years service as three promotional avenues/increments are in the nature of advance promotional benefits. It is stated that TBPS (time bound promotion scheme) after 9 years was due for the claimant on 18/10/1994 and after 16 years was due on 18/10/.2001 and same has been given to the workman as per admissibility. It is alleged that the option sought for from the employee within one month of issuing letter i.e. 19/12/2007 was not submitted by the workman. He had submitted a letter dated 26/11/2009 regarding acceptance for non submission of his option on time. It is also alleged that the claimant is making false claim after a lapse of more than 3 years of his retirement and getting all the terminal benefits which shows his malafide intention. Prayer has been made for dismissal of claim petition.

4. No rejoinder was filed on behalf of claimant and on the basis of pleadings of the parties, following issues were framed on 12/5/2016:-

I) Whether the claim of the workman is not maintainable as alleged in the preliminary objections ?

II) As in terms of reference ?

III) Relief.

7. The claimant in order to prove the cause against the management examined himself as ww1 and tendered as affidavit WW1/A along with documents Ex.WW1/1 to Ex.WW1/32. On the other hand, the management has examined MW1 Shri Prem Kumar Kochar, Superintending Engineer who filed his affidavit Ex.MW1/A and relied on the documents Ex.MW1/1 to Ex.MW1/4.

8. I have heard the claimant who appeared in person and Shri B.L.Gupta, A/R for the Management and have gone through the records carefully. My findings on the above issues are as follows.

Issue No.I :-

9. It has been contended on behalf of the Management that the claim petition is liable to be dismissed -firstly on the ground of delay & latches because the claimant raised the dispute after more than three years from the date of his retirement on 31/3/2011 and secondly because same is not supported with affidavit. I may mention that there is no time limit for making a reference by the Appropriate Government to the Court/Tribunal for adjudication of the dispute and once the reference is received, the Court/Tribunal is required to adjudicate and decide the issues specified therein. Even the Management has failed to show that there was any unreasonable delay on the part of the claimant or that any prejudice has been caused to the Management. It is fairly settled that no reference to the Labour Court/Industrial Tribunal can be questioned on the ground of delay unless it is shown that some prejudice has been caused to the employer and that relief under the Act can not be denied to the workman merely on the ground of delay and latches. Reference in this regard may be made to the judgements of the Apex Court in the case of **Ajaib Singh Vs. The Sirhind Cooperative Marketing Cum-Processing Service Society Ltd. and another, 1991(6) SCC 82 and Raghubir Sikngh Vs. General Manager, Haryana Roadways, Manu/SC/0767/2014.** As such, the plea of the Management that the claim/reference petition be dismissed on the ground of delay & latches, is not tenable.

The provisions of Civil Procedure Code regarding verification of the plaint and filing of affidavit in support of the averments made in the plaint, are not applicable to the ID Act. The object of the Act is to give succour to weaker sections of the society working as labourers in unorganized sector. The Act does not provide that filing of affidavit in support of the claim petition is desirable or mandatory. As such, non filing of affidavit by the claimant in support of the averments made in the claim petition, cannot be considered to be fatal to the case of the claimant. This issue is, therefore, decided against the Management.

Issue No.2 :-

10. At the outset I may mention that as per terms of reference received from the Appropriate Government vide letter dated 1/7/2015, as referred to above in para 1 above, specified point of dispute for adjudication is as to whether the action of the management in retiring the workman Shri Jogi Ram Sharma on 31.3.2011 on attaining the age of 58 years is legal and justified. Main grievance of the claimant is that he has been illegally and wrongly retired from service at the age of 58 years on 31/3/2011, whereas he ought to have been retired on attaining the age of 60 years i.e. on 31/3/2013 and he is, thus, claiming full wages for two years from 1/4/2011 to 31/3/2013 with all consequential benefits.

11- To adjudicate the above issue, it would be worthwhile to refer to the pleadings of the parties and evidence adduced on record. It is manifest from the pleadings of the parties as well as evidence on record that the workman/claimant (born on 1/4/1953) had joined under the Management on the post of Bus Conductor in the pay-scale of Rs.400-600/- on 17/10/1985. The claimant himself has conceded in para 1 of his claim petition and in his cross examination that he was initially engaged as class III category employee, for which age of retirement was 58 years. Pay-scale of Rs.400-600/- was given to employees under category-III whose age of retirement was/is 58 years. This itself shows that the claimant was well aware that he being an employee under category-III was supposed to superannuate on

completion of 58 years of his age. The claimant having been born on 1/4/1953 completed his age of 58 years as on 31/3/2011.

12. Case of the Management is that the Management had issued circular dated 19/12/2007, copy of which has also been filed on record as Ex.MW1/W-2 and Ex.MW1/W-3 (Cyclostyled copy of the same which appears to be complete one is now marked as Ex.C-3). The said circular was issued to rationalize the pay-scale of employees working as Bus conductor under the Management and to bring the pay-scale at par with the pay-scale of employees of Power Wing of the Management, that is to say that the pay-scale of bus conductor which was Rs.3370-6100/- was brought at par with the pay-scale of PSEB employees i.e. Rs.2930-5300 w.e.f. 1/5/2003. It was clarified in the said circular bearing No.32160-309/R&R/130/66(94)/Vol-II dated 19-12-2007 that the bus conductor presently working in the Power Wing of BBMB will have the option to be exercised within one month from the date of issue of the said letter to opt either the pay-scale of Rs.3370 -6100 or Rs.2930-5300 with 1st and 2nd TBPs respectively. It would not be out of place to mention here that pay-scale of Rs.3370-6100/- was meant for employees of class-III category, whereas pay-scale of Rs.2930-5300/- was for employees of class-IV category.

13. It has come on record that in response to aforesaid circular dated 19/12/2007, the workman/claimant had given his option vide letter Ex.WW1/4 as also letter Ex.WW1/16, **submitting that he was appointed to the post of Bus Conductor which comes under category-III and now he is being placed in class-IV pay-scale, which is not justifiable and therefore, he be retained & retired in class-III category.** This option was exercised by the claimant in October, 2008 – probably for monetary benefits, that is to say that he might have wanted to get pay-scale of Rs.3370-6100 meant for class III category of employees instead of getting pay-scale of Rs. 2930-5300/- for class IV category of employees. During the course of arguments, it was strenuously argued on behalf of the claimant that the said option was forcefully taken by the officials of the Management from the claimant/workman. This argument appears to be an after-thought inasmuch neither there is any pleading nor the workman has adduced any evidence in this respect and same is, therefore, rejected.

13- It was also argued on behalf of the workman that another workman namely Shri Gurdial Singh (born on 4/4/1948) whose service book has been filed on record as Ex.C-1 was also working as Bus Conductor under the Management but he was superannuated in April, 2008 on attaining the age of 60 years and thus, the Management has discriminated against the workman/claimant. Ld.A/R for the Management submitted that it was due to oversight or lapse on the part of the Official concerned that the said official Gurdial Singh was not superannuated on attaining the age of 58 years. Just because one of the employees of the Management obtained in the past undue advantage, due to lapse or omission on the part of the official concerned, that would not mean that the claimant/workman also has got legitimate right to claim such an undue advantage. It is fairly settled position in law that no wrong or illegal action if occurred once , can be allowed to be perpetuated. Once the claimant/workman himself had opted for the pay-scale of class-III employees – ostensibly for higher monetary benefits and wished to be retired in the pay-scale of class-III, knowing well that the age of superannuation of class III employees was 58 years, it does not lie in his mouth to allege that he has been wrongly retired from service on attaining the age of 58 years. Therefore, it would be improper to conclude that action of the Management in retiring the workman on 31/3/2011 when he attained the age of 58 years, was unjustified or unwarranted.

14. Before parting with I may mention that the workman/claimant has also pleaded and adduced oral as well as documentary evidence in support of his claim that the Management had not granted him benefits of pay-scale of Rs.5300-9100 w.e.f. 18/10/2001 to which he was entitled and as such he has also prayed that Management be directed to grant him pay-scale of Rs.5300-9100 w.e.f. 18/10/2001 alongwith arrears. In this respect, it would be worthwhile to mention here that as per terms of reference received from the Appropriate Government, **specified point of issue** was relating to the age of retirement of the workman whether 58 years or 60 years which has been answered hereinabove. **Sub-section (4) of Section 10 of the Act clearly provides that the Court/Tribunal shall confine its adjudication to those points which have been specified in the reference and matters incidental thereto.** To my mind, claim of the workman regarding grant of benefit of pay-scale of Rs.5300-9100 w.e.f. 18/10/2001 by no stretch of imagination can be considered to be a matter incidental to the prime/main issue relating to the age of retirement of the workman. Such a claim of the workman is substantive one inasmuch as the claimant was very much in service during the year 2001 and he retired/superannuated from service as on 31/3/2011, when he attained the age of 58 years but this point/issue has not been specified in the reference. Consequently, it would not be proper for this Tribunal either to discuss the oral as well as documentary evidence adduced on behalf of the parties or to give any findings on the issue regarding eligibility/non eligibility of the claimant for grant of benefits of pay-scale of Rs.5300-9100 w.e.f. 18/10/2001, since this issue is not incidental to the issue specified in the reference by the Appropriate Government. It will be worthwhile to mention here that it is not the case of the workman that terminal benefits (like gratuity, GPF and leave encashment etc.) after his retirement have not been paid to him by the Management.

15. Having regard to the aforesaid facts and circumstances of the case, this Tribunal has no hesitation to hold that action of the Management in retiring the workman on 31/3/2011 when he attained the age of 58 years, can not be said to be unjustified and illegal. This issue is, therefore, decided accordingly against the workman.

Issue No.3 – Relief :

16. As a sequel to my aforesaid discussion, this Tribunal is constrained to hold that the workman/claimant is not entitled to any relief whatsoever. Award is accordingly passed. Let a copy of the award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : 19.8.2019

AVTAR CHAND DOGRA, Presiding Officer

नई दिल्ली, 6 सितम्बर, 2019

का.आ. 1673.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स भारतीय जीवन बीमा निगम के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 56/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 05.09.2019 को प्राप्त हुआ था।

[सं. एल-17012/48/2014-आईआर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 6th September, 2019

S.O. 1673.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 56/2014) of the Central Government Industrial Tribunal/Labour Court, Kolkata now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Life Insurance Corporation of India and their workman, which was received by the Central Government on 05.09.2019.

[No. L-17012/48/2014-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 56 of 2014

Parties: Employers in relation to the management of Life Insurance Corporation of India

AND
Their workmen

Present: Justice Ravindra Nath Mishra, Presiding Officer

Appearance:

On behalf of the Management : None

On behalf of the Workmen : None

Dated: 27th August, 2019 Industry: Insurance

AWARD

By Order No.L-17012/48/2014-IR(M) dated 07.07.2014 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of Life Insurance Corporation of India for terminating the service of Sh. Sanjay Biswas working as Financial Services Executive on contract basis w.e.f. 1.11.2012 is legal and justified? If not, what relief the workman is entitled?

3. When the case was taken up for hearing today, none appeared for the parties concerned. It transpires from record that this reference is pending in this Tribunal since 22.07.2014 and the parties entered appearance through their respective learned counsel and they have completed pleadings, but inspite of all the opportunities, the parties failed to adduce any evidence in support of their respective claim as made in their pleadings. Workman is found absent since 16.02.2016, i.e., on seven consecutive dates.

3. On consideration of the facts and circumstances of the case, it appears that the workman has no grievance at present in respect of his termination as mentioned in the order of reference. Therefore, there exists no dispute for adjudication.

4. Therefore, the reference is disposed of accordingly.

Justice RAVINDRA NATH MISHRA, Presiding Officer

Dated, Kolkata,
The 27th August, 2019

नई दिल्ली, 6 सितम्बर, 2019

का.आ. 1674.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स एयरपोर्ट अथॉरिटी ऑफ इण्डिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 33/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 05.09.2019 को प्राप्त हुआ था।

[सं. एल-11011/7/2015-आईआर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 6th September, 2019

S.O. 1674.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 33/2015) of the Central Government Industrial Tribunal/Labour Court, Kolkata now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Airport Authority of India and their workman, which was received by the Central Government on 05.09.2019.

[No. L-11011/7/2015-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 33 of 2015

Parties: Employers in relation to the management of Airport Authority of India

AND

Their workmen

Present: Justice Ravindra Nath Mishra, Presiding Officer

Appearance:

On behalf of the Management : None

On behalf of the Workmen : Mr. Santanu Biswas, Branch Secretary of the union

Dated: 30th August, 2019 Industry: Civil Aviation

AWARD

By Order No.L-11011/7/2015-IR(M) dated 04.06.2015 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) referred the following dispute to this Tribunal for adjudication:

"Whether the action of the Airports Authority of India Ltd., Kolkata in effecting transfer policy by which 22 number of fire discipline (non-executive) as per the list enclosed, have been transferred from Gaya to Bhubaneswar, Patna, NSCBIAirport, FSTC from Raipur to NSCBI Airport, Bhubaneswar FSTC from NSCBI Airport to Gaya Raipur from Bhubaneswar to NSCBI Airport and from Ranchi to NSCBI Airport with the approval of Central Government and its notification in the official gazette as per the provisions of Sub Section 4 of Section 42 of AAI Act, 1994 is justified? If not, what relief the workmen are entitled to?"

2. When the case was taken up for hearing on 29.08.2019, authorized representative of the union moved an application for withdrawal of this reference as similar matter is pending before the Central Government Industrial Tribunal-cum-Labour Court at Delhi.

3. A reference cannot be withdrawn by any of the parties. However, it transpires from record that this reference is pending in this Tribunal since 24th June, 2015 and no step has been taken by the union to pursue its claim. Thus it is clear from the conduct of the union that it is not interested to pursue the present reference.

4. On consideration of the facts and circumstances of the case, it appears that the union has no grievance at present in respect of transfer policy by which 22 number of workmen have been transferred as mentioned in the order of reference. Therefore, there exists no dispute for adjudication.

5. Therefore, the reference is disposed of accordingly.

Justice RAVINDRA NATH MISHRA, Presiding Officer

Dated, Kolkata,

The 30th August, 2019

नई दिल्ली, 6 सितम्बर, 2019

का.आ. 1675.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स इंडियन ऑयल कॉर्पोरेशन लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 16/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 05.09.2019 को प्राप्त हुआ था।

[सं. एल-30011/73/2012-आईआर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 6th September, 2019

S.O. 1675.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 16/2013) of the Central Government Industrial Tribunal/Labour Court, Kolkata now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Indian Oil Corporation Limited and their workman, which was received by the Central Government on 05.09.2019.

[No. L-30011/73/2012-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 16 of 2013

Parties: Employers in relation to the management of Indian Oil Corporation (Refinery Division, Haldia

AND

Their workmen

Present: Justice Ravindra Nath Mishra, Presiding Officer

Appearance:

On behalf of the Management : Mr. N.K. Mehta, learned counsel with
Mr. S. Sharma, learned counsel

On behalf of the Workmen : Mr. Shuvendu Chakraborty, Working President of the union

Dated: 29th August, 2019 Industry: Petroleum

AWARD

By Order No.L-30011/73/2012-IR(M) dated 07.03.2013 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of Indian Oil Corporation (Refinery Division), Haldia in curtailment of manpower in CDU-I Panel bypassing/ignoring the recognized union, is legal and justified? What relief the union is entitled to?"

2. When the case was taken up for hearing today, both parties are present. Authorized representative of the union has moved an application stating that the dispute has been amicably resolved between the parties concerned, therefore the union does not intend to pursue the present reference. Consequently, it is requested that an Award of No Dispute may be passed. Learned counsel for the management has no objection to the same.

3. Since the union at whose instance present reference has been made by the Central Government does not want to pursue the reference in view of amicable settlement arrived at between the parties concerned, there exists no dispute for adjudication.

4. Therefore, the reference is disposed of accordingly.

Justice RAVINDRA NATH MISHRA, Presiding Officer

Dated, Kolkata,

The 29th August, 2019

नई दिल्ली, 9 सितम्बर, 2019

का.आ. 1676.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स आंध्र सीमेंट्स लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 15/2016) को प्रकाशित करती है जो केन्द्रीय सरकार को 09.09.2019 को प्राप्त हुआ था।

[सं. एल-29012/4/2016-आईआर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 9th September, 2019

S.O. 1676.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 15/2016) of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Andhra Cements Limited and their workman, which was received by the Central Government on 09.09.2019.

[No. L-29012/4/2016-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present: Sri Muralidhar Pradhan, Presiding Officer

Dated the 27th day of August, 2019

INDUSTRIAL DISPUTE No. 15/2016

Between:

Sri Gorle Appala Naidu,
S/o Demudu,
Vill-Gorlevanipalem,
Mandal-Sabbavaram,
Distt. Visakhapatnam (A.P.) ...Petitioner

AND

The Senior Vice President & Plant Head,
Andhra Cements Limited, Jaypee Group,
Visakha Cement Works, Porlupalem (Village),
Post – Durganagar, Visakhapatnam (A.P.) – 530 029.

…Respondent

Appearances:

For the Petitioner : M/s. P.V. Giridhar & P.V.P.A. Hara Kumar & P. Annapurna, Advocates

For the Respondent : M/s. Saibaba & Srinivas, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L- 29012/4/2016-IR(M) dated 12.2.2016 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of Andhra Cements Limited and their workman. The reference is,

SCHEDULE

"Whether the action of the management of Andhra Cements Limited Visakha Cement Works, Visakhapatnam Jaypee group of company in not considering Sri Gorle Appala Naidu, S/o Demudu workman in service or else in not paying legal/termination benefits to his father for the past services rendered to Andhra Cement Company, Visakhapatnam is legal and justified? If not, to what relief the concerned workman entitled?"

The reference is numbered in this Tribunal as I.D. No. 15/2016 and notices were issued to the parties concerned.

2. The case stands posted for filing of claim statement by the Petitioner .

3. Inspite of repeated calls, the Petitioner did not turn up. Several opportunities have been given to the Petitioner Workman to attend the court to prosecute his case. But the Petitioner workman failed to attend this Tribunal which clearly indicates that perhaps the dispute of the Petitioner workman has already been settled and the Petitioner has no claim to raise against the Respondents. Hence, the case of the Petitioner workman is closed and a 'No dispute' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, corrected by me on this the 27th day of August, 2019.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 9 सितम्बर, 2019

का.आ. 1677.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स आंध्र सीमेंट्स लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 16/2016) को प्रकाशित करती है जो केन्द्रीय सरकार को 09.09.2019 को प्राप्त हुआ था।

[सं. एल-29012/5/2016-आईआर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 9th September, 2019

S.O. 1677.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 16/2016) of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Andhra Cements Limited and their workman, which was received by the Central Government on 09.09.2019.

[No. L-29012/5/2016-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present: Sri Muralidhar Pradhan,Presiding Officer

Dated the 27th day of August, 2019

INDUSTRIAL DISPUTE No. 16/2016

Between:

Sri Badireddi Suryanarayana,
S/o Krishna,
Vill-Gorlevanipalem,
Mandal-Sabbavaram,
Distt. Visakhapatnam (A.P.) …Petitioner

AND

The Senior Vice President & Plant Head,
Andhra Cements Limited, Jaypee Group,
Visakha Cement Works, Porlupalem (Village),
Post – Durganagar, Visakhapatnam (A.P.) – 530 029.

…Respondent

Appearances:

For the Petitioner : M/s. P.V. Giridhar & P.V.P.A. Hara Kumar & P. Annapurna, Advocates

For the Respondent : M/s. Saibaba & Srinivas, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L- 29012/5/2016-IR(M) dated 12.2.2016 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of Andhra Cements Limited and their workman. The reference is,

SCHEDULE

"Whether the action of the management of Andhra Cements Limited Visakha Cement Works, Visakhapatnam Jaypee group of company in not considering Sri Badireddy Suryanarayana S/o Krishna workman in service or else in not paying legal/termination benefits to his father for the past services rendered to Andhra Cement Company, Visakhapatnam is legal and justified? If not, to what relief the concerned workman entitled?"

The reference is numbered in this Tribunal as I.D. No. 16/2016 and notices were issued to the parties concerned.

2. The case stands posted for filing of claim statement by the Petitioner .

3. Inspite of repeated calls, the Petitioner did not turn up. Several opportunities have been given to the Petitioner Workman to attend the court to prosecute his case. But the Petitioner workman failed to attend this Tribunal which clearly indicates that perhaps the dispute of the Petitioner workman has already been settled and the Petitioner has no claim to raise against the Respondents. Hence, the case of the Petitioner workman is closed and a 'No dispute' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, corrected by me on this the 27th day of August, 2019.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 9 सितम्बर, 2019

का.आ. 1678.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स आंध्र सीमेंट्स लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 17/2016) को प्रकाशित करती है जो केन्द्रीय सरकार को 09.09.2019 को प्राप्त हुआ था।

[सं. एल-29012/6/2016-आईआर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 9th September, 2019

S.O. 1678.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 17/2016) of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Andhra Cements Limited and their workman, which was received by the Central Government on 09.09.2019.

[No. L-29012/6/2016-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present: Sri Muralidhar Pradhan, Presiding Officer

Dated the 27th day of August, 2019

INDUSTRIAL DISPUTE No. 17/2016

Between:

Sri Gorle Demudu,
S/o Venkanna,
Vill-Gorlevanipalem,
Mandal-Sabbavaram,
Distt. Visakhapatnam (A.P.) …Petitioner

AND

The Senior Vice President & Plant Head,
Andhra Cements Limited, Jaypee Group,
Visakha Cement Works, Porlupalem (Village),
Post – Durganagar, Visakhapatnam (A.P.) – 530 029.

…Respondent

Appearances:

For the Petitioner : M/s. P.V. Giridhar & P.V.P.A. Hara Kumar & P. Annapurna, Advocates

For the Respondent : M/s. Saibaba & Srinivas, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L- 29012/6/2016-IR(M) dated 12.2.2016 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of Andhra Cements Limited and their workman. The reference is,

SCHEDULE

"Whether the action of the management of Andhra Cements Limited Visakha Cement Works, Visakhapatnam Jaypee group of company in not considering Sri Gorle Demudu S/o Venkanna workman in service in

contravention of section 25F of the Industrial Disputes Act or else in not paying legal benefit for the past services rendered to Andhra Cement Company is legal and justified? If not, to what relief the concerned workman is entitled?"

The reference is numbered in this Tribunal as I.D. No. 17/2016 and notices were issued to the parties concerned.

2. The case stands posted for filing of claim statement by the Petitioner .

3. Inspite of repeated calls, the Petitioner did not turn up. Several opportunities have been given to the Petitioner Workman to attend the court to prosecute his case. But the Petitioner workman failed to attend this Tribunal which clearly indicates that perhaps the dispute of the Petitioner workman has already been settled and the Petitioner has no claim to raise against the Respondents. Hence, the case of the Petitioner workman is closed and a 'No dispute' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, corrected by me on this the 27th day of August, 2019.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 9 सितम्बर, 2019

का.आ. 1679.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स आंध्र सीमेंट्स लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 18/2016) को प्रकाशित करती है जो केन्द्रीय सरकार को 09.09.2019 को प्राप्त हुआ था।

[सं. एल-29012/7/2016-आईआर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 9th September, 2019

S.O. 1679.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 18/2016) of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Andhra Cements Limited and their workman, which was received by the Central Government on 09.09.2019.

[No. L-29012/7/2016-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Sri Muralidhar Pradhan, Presiding Officer

Dated the 27th day of August, 2019

INDUSTRIAL DISPUTE No. 18/2016

Between:

Sri Pyla Appala Naidu
S/o Sakuru,
Vill- Peda Naidupalem,
Mandal-Sabbavaram,
Distt. Visakhapatnam (A.P.) …Petitioner

AND

The Senior Vice President & Plant Head,
Andhra Cements Limited, Jaypee Group,
Visakha Cement Works, Porlupalem (Village),
Post – Durganagar, Visakhapatnam (A.P.) – 530 029.
…Respondent

Appearances:

For the Petitioner : M/s. P.V. Giridhar & P.V.P.A. Hara Kumar & P. Annapurna, Advocates

For the Respondent : M/s. Saibaba & Srinivas, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L- 29012/7/2016-IR(M) dated 12.2.2016 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of Andhra Cements Limited and their workman. The reference is,

SCHEDULE

"Whether the action of the management of Andhra Cements Limited, Visakha Cement Works, Visakhapatnam Jaypee group of company in not considering Sri Pyla Appala Naidu S/o Sri Sakuru in service in contravention of section 25F of the Industrial Disputes Act, or else in not paying legal benefit for the past services rendered to Andhra Cement Company is legal and justified? If not, to what relief the concerned workman is entitled?"

The reference is numbered in this Tribunal as I.D. No. 18/2016 and notices were issued to the parties concerned.

2. The case stands posted for filing of claim statement by the Petitioner .

3. Inspite of repeated calls, the Petitioner did not turn up. Several opportunities have been given to the Petitioner Workman to attend the court to prosecute his case. But the Petitioner workman failed to attend this Tribunal which clearly indicates that perhaps the dispute of the Petitioner workman has already been settled and the Petitioner has no claim to raise against the Respondents. Hence, the case of the Petitioner workman is closed and a 'No dispute' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, corrected by me on this the 27th day of August, 2019.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 9 सितम्बर, 2019

का.आ. 1680.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स आंध्र सीमेंट्स लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 19/2016) को प्रकाशित करती है जो केन्द्रीय सरकार को 09.09.2019 को प्राप्त हुआ था।

[सं. एल-29012/8/2016-आईआर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 9th September, 2019

S.O. 1680.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 19/2016) of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Andhra Cements Limited and their workman, which was received by the Central Government on 09.09.2019.

[No. L-29012/8/2016-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present: Sri Muralidhar Pradhan, Presiding Officer

Dated the 26th day of August, 2019

INDUSTRIAL DISPUTE No. 19/2016

Between:

Sri Pyla Suri Babu,
S/o Thatalu,
Vill- Gorlevanipalem,
Mandal-Sabbavaram,
Distt. Visakhapatnam (A.P.) …Petitioner

AND

The Senior Vice President & Plant Head,
Andhra Cements Limited, Jaypee Group,
Visakha Cement Works, Porlupalem (Village),
Post – Durganagar, Visakhapatnam (A.P.) – 530 029. …Respondent

Appearances:

For the Petitioner : Party in Person

For the Respondent : M/s. Saibaba & Srinivas, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L- 29012/8/2016-IR(M) dated 12.2.2016 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of Andhra Cements Limited and their workman. The reference is,

SCHEDULE

"Whether the action of the management of Andhra Cements Limited, Visakha Cement Works, Visakhapatnam Jaypee group of company in not considering Sri Pyla Suri Babu S/o Thatalu in service in contravention of section 25F of the Industrial Disputes Act, or else in not paying legal benefit for the past services rendered to Andhra Cement Company is legal and justified? If not, to what relief the concerned workman is entitled?"

The reference is numbered in this Tribunal as I.D. No. 19/2016 and notices were issued to the parties concerned.

2. The case stands posted for filing of claim statement by the Petitioner .

3. Inspite of repeated calls, the Petitioner did not turn up. Several opportunities have been given to the Petitioner Workman to attend the court to prosecute his case. But the Petitioner workman failed to attend this Tribunal which clearly indicates that perhaps the dispute of the Petitioner workman has already been settled and the Petitioner has no claim to raise against the Respondents. Hence, the case of the Petitioner workman is closed and a 'No dispute' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, corrected by me on this the 26th day of August, 2019.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 9 सितम्बर, 2019

का.आ. 1681.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स आंध्र सीमेंट्स लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 20/2016) को प्रकाशित करती है जो केन्द्रीय सरकार को 09.09.2019 को प्राप्त हुआ था।

[सं. एल-29012/9/2016-आईआर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 9th September, 2019

S.O. 1681.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 20/2016) of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Andhra Cements Limited and their workman, which was received by the Central Government on 09.09.2019.

[No. L-29012/9/2016-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present: Sri Muralidhar Pradhan, Presiding Officer

Dated the 26th day of August, 2019

INDUSTRIAL DISPUTE No. 20/2016

Between:

Sri Gandi Krishna,
S/o Appanna
Vill- Gorlevanipalem,
Mandal-Sabbavaram,
Distt. Visakhapatnam (A.P.) …Petitioner

AND

The Senior Vice President & Plant Head,
Andhra Cements Limited, Jaypee Group,
Visakha Cement Works, Porlupalem (Village),
Post – Durganagar, Visakhapatnam (A.P.) – 530 029. …Respondent

Appearances:

For the Petitioner : M/s. P.V. Giridhar, P.V.P.A. Harakumar & Smt. P. Annapoorna, Advocates

For the Respondent : M/s. Saibaba & Srinivas, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L- 29012/9/2016-IR(M) dated 12.2.2016 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of Andhra Cements Limited and their workman. The reference is,

SCHEDULE

"Whether the action of the management of Andhra Cements Limited, Visakha Cement Works, Visakhapatnam Jaypee group of company in not considering Sri Gandi Krishna S/o Appanna in service in contravention of section 25F of the Industrial Disputes Act, or else in not paying legal benefit for the past services rendered to Andhra Cement Company is legal and justified? If not, to what relief the concerned workman is entitled?"

The reference is numbered in this Tribunal as I.D. No. 20/2016 and notices were issued to the parties concerned.

2. The case stands posted for filing of claim statement by the Petitioner .

3. Inspite of repeated calls, the Petitioner did not turn up. Several opportunities have been given to the Petitioner Workman to attend the court to prosecute his case. But the Petitioner workman failed to attend this Tribunal which clearly indicates that perhaps the dispute of the Petitioner workman has already been settled and the Petitioner has no claim to raise against the Respondents. Hence, the case of the Petitioner workman is closed and a 'No dispute' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, corrected by me on this the 26th day of August, 2019.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 9 सितम्बर, 2019

का.आ. 1682.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स आंध्र सीमेंट्स लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 21/2016) को प्रकाशित करती है जो केन्द्रीय सरकार को 09.09.2019 को प्राप्त हुआ था।

[सं. एल-29012/10/2016-आईआर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 9th September, 2019

S.O. 1682.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 21/2016) of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Andhra Cements Limited and their workman, which was received by the Central Government on 09.09.2019.

[No. L-29012/10/2016-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present : Sri Muralidhar Pradhan, Presiding Officer

Dated the 28th day of August, 2019

INDUSTRIAL DISPUTE No. 21/2016

Between:

Sri Mathala Narayana Murthy,
S/o Appala Naidu,
Vill- Gorlevanipalem,
Mandal-Sabbavaram,
Distt. Visakhapatnam (A.P.) … Petitioner

AND

The Senior Vice President & Plant Head,
Andhra Cements Limited, Jaypee Group,
Visakha Cement Works, Porlupalem (Village),
Post – Durganagar, Visakhapatnam (A.P.) – 530 029. …Respondent

Appearances:

For the Petitioner : M/s. P.V. Giridhar, P.V.P.A. Harakumar & Smt. P. Annapoorna, Advocates

For the Respondent : M/s. Saibaba & Srinivas, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-29012/10/2016-IR(M) dated 12.2.2016 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of Andhra Cements Limited and their workman. The reference is,

SCHEDULE

"Whether the action of the management of Andhra Cements Limited, Visakha Cement Works, Visakhapatnam Jaypee group of company in not considering Sri Mathala Narayana Murthy S/o Appala Naidu in service in contravention of section 25F of the Industrial Disputes Act, or else in not paying legal benefit for the past services rendered to Andhra Cement Company is legal and justified? If not, to what relief the concerned workman is entitled?"

The reference is numbered in this Tribunal as I.D. No. 21/2016 and notices were issued to the parties concerned.

2. The case stands posted for filing of claim statement by the Petitioner .

3. Inspite of repeated calls, the Petitioner did not turn up. Several opportunities have been given to the Petitioner Workman to attend the court to prosecute his case. But the Petitioner workman failed to attend this Tribunal which clearly indicates that perhaps the dispute of the Petitioner workman has already been settled and the Petitioner has no claim to raise against the Respondents. Hence, the case of the Petitioner workman is closed and a 'No dispute' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, corrected by me on this the 28th day of August, 2019.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 9 सितम्बर, 2019

का.आ. 1683.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स आंध्र सीमेंट्स लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 22/2016) को प्रकाशित करती है जो केन्द्रीय सरकार को 09.09.2019 को प्राप्त हुआ था।

[सं. एल-29012/11/2016-आईआर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 9th September, 2019

S.O. 1683—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 22/2016) of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Andhra Cements Limited and their workman, which was received by the Central Government on 09.09.2019.

[No. L-29012/11/2016-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present: Sri Muralidhar Pradhan, Presiding Officer

Dated the 28th day of August, 2019

INDUSTRIAL DISPUTE No. 22/2016

Between:

Sri Cheepurupalli Rambabu,
S/o Sanni Babu,
Vill- Gorlevanipalem,
Mandal-Sabbavaram,
Distt. Visakhapatnam (A.P.) …Petitioner

AND

The Senior Vice President & Plant Head,
Andhra Cements Limited, Jaypee Group,
Visakha Cement Works, Porlupalem (Village),
Post – Durganagar, Visakhapatnam (A.P.) – 530 029. …Respondent

Appearances:

For the Petitioner : M/s. P.V. Giridhar, P.V.P.A. Harakumar & Smt. P. Annapoorna, Advocates

For the Respondent : M/s. Saibaba & Srinivas, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L- 29012/11/2016-IR(M) dated 12.2.2016 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of Andhra Cements Limited and their workman. The reference is,

SCHEDULE

"Whether the action of the management of Andhra Cements Limited, Visakha Cement Works, Visakhapatnam Jaypee group of company in not considering Sri Cheepurupalli Rambabu S/o Sanni Babu workmen in service or else in not paying legal/termination benefit to his father for the past services rendered to Andhra Cement Company is legal and justified? If not, to what relief the concerned workman is entitled?"

The reference is numbered in this Tribunal as I.D. No. 22/2016 and notices were issued to the parties concerned.

2. The case stands posted for filing of claim statement by the Petitioner.

3. Inspite of repeated calls, the Petitioner did not turn up. Several opportunities have been given to the Petitioner Workman to attend the court to prosecute his case. But the Petitioner workman failed to attend this Tribunal which clearly indicates that perhaps the dispute of the Petitioner workman has already been settled and the Petitioner has no claim to raise against the Respondents. Hence, the case of the Petitioner workman is closed and a 'No dispute' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, corrected by me on this the 28th day of August, 2019.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 9 सितम्बर, 2019

का.आ. 1684.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स आंध्र सीमेंट्स लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 24/2016) को प्रकाशित करती है जो केन्द्रीय सरकार को 09.09.2019 को प्राप्त हुआ था।

[सं. एल-29012/13/2016-आईआर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 9th September, 2019

S.O. 1684.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 24/2016) of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Andhra Cements Limited and their workman, which was received by the Central Government on 09.09.2019.

[No. L-29012/13/2016-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present: Sri Muralidhar Pradhan, Presiding Officer

Dated the 28th day of August, 2019

INDUSTRIAL DISPUTE No. 24/2016

Between:

Sri Guri Demudu Babu,
S/o Ramu Naidu,
Vill- Moglipuram,
Mandal-Sabbavaram,
Distt. Visakhapatnam (A.P.) …Petitioner

AND

The Senior Vice President & Plant Head,
Andhra Cements Limited, Jaypee Group,
Visakha Cement Works, Porlupalem (Village),
Post – Durganagar, Visakhapatnam (A.P.) – 530 029. …Respondent

Appearances:

For the Petitioner : M/s. P.V. Giridhar, P.V.P.A. Harakumar & Smt. P. Annapoorna, Advocates

For the Respondent : M/s. Saibaba & Srinivas, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L- 29012/13/2016-IR(M) dated 29.3.2016 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of Andhra Cements Limited and their workman. The reference is,

SCHEDULE

"Whether the action of the management of Andhra Cements Limited, Visakha Cement Works, Visakhapatnam Jaypee group of company in not considering Sri Guri Demudu Babu S/o Ramu Naidu in services in contravention of section 25F of the Industrial Disputes Act, or else in not paying legal benefits for the past services rendered to Andhra Cement Company is legal and justified? If not, to what relief the concerned workman is entitled?"

The reference is numbered in this Tribunal as I.D. No. 24/2016 and notices were issued to the parties concerned.

2. The case stands posted for filing of claim statement by the Petitioner .

3. Inspite of repeated calls, the Petitioner did not turn up. Several opportunities have been given to the Petitioner Workman to attend the court to prosecute his case. But the Petitioner workman failed to attend this Tribunal which clearly indicates that perhaps the dispute of the Petitioner workman has already been settled and the Petitioner has no claim to raise against the Respondents. Hence, the case of the Petitioner workman is closed and a 'No dispute' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, corrected by me on this the 28th day of August, 2019.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 9 सितम्बर, 2019

का.आ. 1685.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स भारतीय जीवन बीमा निगम के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 34/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 09.09.2019 को प्राप्त हुआ था।

[सं. एल-17012/43/2013-आईआर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 9th September, 2019

S.O. 1685.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 34/2014) of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Life Insurance Corporation of India and their workman, which was received by the Central Government on 09.09.2019.

[No. L-17012/43/2013-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present: Sri Muralidhar Pradhan, Presiding Officer

Dated the 26th day of August, 2019

INDUSTRIAL DISPUTE No. 34/2014

Between:

Sri G. Srinivasa Babu,
S/o G. Ram Mohan Rao,
D.No.20/134, Brahmapuram,
Machilipatnam. …Petitioner

AND

1. The Sr. Divisional Manager,
LIC of India, Divisional Office,
Kennedy Road, Machilipatnam-521001.

2. The Divisional Manager,
LIC of India, Divisional Office,
Kennedy Road, Machilipatnam-521001. ...Respondents

Appearances:

For the Petitioner : None

For the Respondent : Sri K.R.L. Sarma, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L- 17012/43/2013-IR(M) dated 18.2.2014 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of Life Insurance Corporation of India and their workman. The reference is,

SCHEDULE

"Whether the removal from service of Sri G. Srinivas Babu, Ex-Temp. Class-IV LIC of India, Machilipatnam Divisional Office w.e.f. 21.1.2013 is legal and justified? If not, what other relief the workman is entitled to?"

The reference is numbered in this Tribunal as I.D. No. 34/2014 and notices were issued to the parties concerned.

2. The case stands posted for filing of claim statement and documents by the Petitioner.

3. Inspite of repeated calls, the Petitioner did not turn up. Several opportunities have been given to the Petitioner Workman to attend the court to prosecute his case. But the Petitioner workman failed to attend this Tribunal which clearly indicates that perhaps the dispute of the Petitioner workman has already been settled and the Petitioner has no claim to raise against the Respondents. Hence, the case of the Petitioner workman is closed and a 'No dispute' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, corrected by me on this the 26th day of August, 2019.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 9 सितम्बर, 2019

का.आ. 1686.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स आंध्र सीमेंट्स लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 26/2016) को प्रकाशित करती है जो केन्द्रीय सरकार को 09.09.2019 को प्राप्त हुआ था।

[सं. एल-29012/15/2016-आईआर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 9th September, 2019

S.O. 1686.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 26/2016) of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Andhra Cements Limited and their workman, which was received by the Central Government on 09.09.2019.

[No. L-29012/15/2016-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present: Sri Muralidhar Pradhan, Presiding Officer

Dated the 28th day of August, 2019

INDUSTRIAL DISPUTE No. 26/2016

Between:

Sri Guri Bandaiah,
S/o Sri Ramulu,
Vill- Moglipuram,
Mandal-Sabbavaram,
Distt. Visakhapatnam (A.P.) …Petitioner

AND

The Senior Vice President & Plant Head,
Andhra Cements Limited, Jaypee Group,
Visakha Cement Works, Porlupalem (Village),
Post – Durganagar, Visakhapatnam (A.P.) – 530 029. …Respondent

Appearances:

For the Petitioner : M/s. P.V. Giridhar, P.V.P.A. Harakumar & Smt. P. Annapoorna, Advocates

For the Respondent : M/s. Saibaba & Srinivas, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L- 29012/15/2016-IR(M) dated 29.3.2016 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of Andhra Cements Limited and their workman. The reference is,

SCHEDULE

"Whether the action of the management of Andhra Cements Limited, Visakha Cement Works, Visakhapatnam Jaypee group of company in not considering Sri Guri Bandaiah S/o Ramulu in services in contravention of

section 25F of the Industrial Disputes Act, or else in not paying legal benefits for the past services rendered to Andhra Cement Company is legal and justified? If not, to what relief the concerned workman is entitled?"

The reference is numbered in this Tribunal as I.D. No. 26/2016 and notices were issued to the parties concerned.

2. The case stands posted for filing of claim statement by the Petitioner .

3. Inspite of repeated calls, the Petitioner did not turn up. Several opportunities have been given to the Petitioner Workman to attend the court to prosecute his case. But the Petitioner workman failed to attend this Tribunal which clearly indicates that perhaps the dispute of the Petitioner workman has already been settled and the Petitioner has no claim to raise against the Respondents. Hence, the case of the Petitioner workman is closed and a 'No dispute' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, corrected by me on this the 28th day of August, 2019.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 9 सितम्बर, 2019

का.आ. 1687.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स भारतीय जीवन बीमा निगम के प्रबंधतंत्र के संबंद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 47/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 09.09.2019 को प्राप्त हुआ था।

[सं. एल-17012/30/2013-आईआर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 9th September, 2019

S.O. 1687.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 47/2014) of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Life Insurance Corporation of India and their workman, which was received by the Central Government on 09.09.2019.

[No. L-17012/30/2013-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present: Sri Muralidhar Pradhan, Presiding Officer

Dated the 26th day of August, 2019

INDUSTRIAL DISPUTE No. 47/2014

Between:

Sri B. Ravi Kumar,
S/o Anjaneyulu,
22nd Ward, Indira Yanadi Colony,
Repalle – 522262. Guntur District.

AND

1. The Sr. Divisional Manager,
   LIC of India, Divisional Office,
   Kennedy Road, Machilipatnam-521001.

2. The Divisional Manager,
   LIC of India, Repalle Branch,
   Repalle. Guntur District. …Respondents

Appearances:

For the Petitioner : Sri M.V.L. Narsaiah, Advocate

For the Respondent : Representative

AWARD

The Government of India, Ministry of Labour by its order No. L- 17012/30/2013-IR(M) dated 4.3.2014 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of Life Insurance Corporation of India and their workman. The reference is,

SCHEDULE

"Whether the removal from service of Sri B. Ravi Kumar, Ex-Temp. Class-IV LIC of India, Repalle Branch w.e.f. 28.1.2013 is legal and justified? If not, what other relief the workman is entitled to?"

The reference is numbered in this Tribunal as I.D. No. 47/2014 and notices were issued to the parties concerned.

2. The case stands posted for filing of claim statement and documents by the Petitioner.

3. Inspite of repeated calls, the Petitioner did not turn up. Several opportunities have been given to the Petitioner Workman to attend the court to prosecute his case. But the Petitioner workman failed to attend this Tribunal which clearly indicates that perhaps the dispute of the Petitioner workman has already been settled and the Petitioner has no claim to raise against the Respondents. Hence, the case of the Petitioner workman is closed and a 'No dispute' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, corrected by me on this the 26th day of August, 2019.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 9 सितम्बर, 2019

का. आ. 1688.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार विजया बैंक के प्रबंधतत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बंगलोर के पंचाट (संदर्भ सं. 09/2016) को प्रकाशित करती है जो केन्द्रीय सरकार को 09.09.2019 को प्राप्त हुआ था।

[सं. एल–39025/01/2019–आईआर (बी–II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 9th September, 2019

S.O. 1688.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 09/2016) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the industrial dispute between the management of Vijaya Bank, and their workmen, received by the Central Government on 09.09.2019.

[No. L-39025/01/2019-IR(B-II)]

SEEMA BANSAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIUBNAL-CUM-LABOUR COURT

BANGALORE

DATED : 23RD AUGUST 2019

PRESENT : Justice Smt. Ratnakala, Presiding Officer

I. D. NO. 09/2016

I Party	**II Party**
Sh. Vasanth Kumar, S/o D Yamunappa, MIG 1, No. 427, IInd Main, 5th Cross, Kuvempu Nagar, Bellary – 583103.	The Deputy Manager & Disciplinary Authority, Vijaya Bank, Head Office, Bangalore – 560001.

Appearance :

Advocate for I Party : Mr. R. Nagendra Naik

AWARD

1. The claim of the 1st Party workman is, he was working as a Clerk at Thoranagal Branch of the 2nd Party. He was issued Charge Sheet Dated 24.1.2015 on certain allegations. Enquiry was conducted; the Enquiry Officer gave his findings, ignoring his defence points. The Disciplinary Authority on the basis of the enquiry findings dismissed him from service w.e.f 25.01.2016. The appeal preferred by him was disposed off after a gap of eight months, the delay in issuing Charge Sheet, conducting enquiry, disposing of the appeal etc., amounts to denial of justice.

2. It is further pleaded by the 1st Party that, Domestic Enquiry was held ignoring the Principles of Natural Justice. The allegation pertains to closure of Term Deposits of the customers before maturity time, by misusing the passwords of the Branch Manager. Thereby, committing gross misconduct under Clause 5(j) of memorandum of Settlement of Disciplinary Action procedure of workman dated 10.04.2002. Action should have been taken against the Branch Manager / Assistant Branch Manager who are responsible for not maintaining the secrecy of password. As agreed by the Presenting Officer in his written brief there were staff lapses at the Branch when the incident occurred. None of the Term Depositors whose fixed deposit is said to have been closed before the maturity are examined.

It is the further grievance of the 1st Party that, the 2nd Party has lodged a complaint before the Jurisdiction Police against the four Officers including the 1st Party. As per Clause No.4 of the Bipartite Settlement dated 10.04.2002, enquiry shall be stayed till completion of trial. Despite service of notice, 2nd Party did not respond.

3. The 2nd Party failed to file their Counter Statement despite this Tribunal granted sufficient time. Thereafter, the 1st Party workman filed his affidavit evidence reiterating his case and produced the Suspension Order, Charge Sheet, Enquiry Report, Punishment Order and the Orders passed by the Appellate Authority as Ex W-1 to W-5. This Tribunal vide Award dated 17.11.2017 allowed the claim.

4. Aggrieved by the Award, the 2nd Party approached the Hon'ble High Court in WP No. 9526/2018 challenging the Award. The Hon'ble High Court with the consent of both Parties disposed off, the Writ Petition quashed the Award subject to payment of Rs. 5000/- (Five Thousand Rupees) within a period of one week from the date, both the Parties appeared before the Tribunal. The Parties were also directed to appear before this Tribunal on 24.04.2019 at 11:00 am, without waiting for notice from the Tribunal. The Hon'ble High Court has also recorded the submission made by the Learned Senior Counsel representing the Bank to the effect that the objection will be filed on the 1st date of hearing before the Tribunal.

5. On receipt of the order of the Hon'ble High Court through the learned counsel for the 1st Party on 24.04.2019, notice was issued to both parties by fixing the hearing date as 23.05.2019. Though served 2nd Party did not show up, they have not paid the cost of Rs. 5000/- (Five Thousand Rupees) as ordered by the Hon'ble High Court. Despite knowledge of the present proceeding, the 2nd Party has not cared to prosecute their case. Since, the 2nd Party have failed to justify their action in dismissing the 1st Party workman w.e.f 25.01.2016. The only eventuality is reinstatement of the workman by setting aside the Punishment Order with consequential monetary benefits.

Furthermore, in his affidavit evidence the workman contends that the premature closure of all the six Term Deposits mentioned in the Charge Sheet were closed by Sh. Manjunath N Officer and authorised by the Branch Manager Sh. Aravind N Vaidhya as per the evidence produced in the enquiry. The management of issuing *"INSTA Cards"* to the customers was the duty of the Officer / Manager, said cards were always in the custody of the key holders; he had no access to the same; the authorisation of the Manager is, required to convert an inoperative saving Bank Account into operative. He was to carry out only the instructions of the Branch Managers or his Superiors. He had no role except to do the Clerical work as per the instructions of his Superiors.

6. He had further averred that one of the allegations against him was, there were credits in his SOD Account which was more than his known source of income. But he was having a Over Draft Limit of Rs. 2,17,000/- (Two Lakhs Seventeen Thousand Rupees), it was a revolving credit limit; his transactions were within the limit mentioned in the sanctioned limit. One more allegation was, he made cash credits to the Joint Account of his Sister and Father. His Sister availed Education Loan of Rs. 1,99,000/- (One Lakh Ninety Nine Thousand Rupees) whenever, she needed money his Father used to give him the amount to credit the same to her account. No evidence was produced during the enquiry in respect of the allegation that he has withdrawn Rs. 50,000/- (Fifty Thousand Rupees) from the S B Account of Sh. Shiva Reddy by using his ATM Card.

7. The above evidence of the 1st Party workman has remained intact without challenge. In the circumstance appreciating the case of the 1st Party, I deemed fit to exercise the jurisdiction vested with me under Section 11 A of the I D Act.

AWARD

The petition is allowed

The order passed by the Deputy General Manager (Disciplinary Authority) of the 2nd Party Bank dated 25.01.2016 thereby dismissing the workman from the service of the Bank is set aside. The 2nd Party is directed to reinstate the workman with 90% (Ninety Percentage) of back wages from the date of dismissal to the date of reinstatement and continuity of service.

(Dictated to o/s L D C, transcribed by her, corrected and signed by me on 23rd August, 2019)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 9 सितम्बर, 2019

का. आ. 1689.–औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूको बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ सं. 67/2003) को प्रकाशित करती है जो केन्द्रीय सरकार को 09.09.2019 को प्राप्त हुआ था।

[सं. एल–12012/42/2003–आईआर (बी–II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 9th September, 2019

S.O. 1689.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 67/2003) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the industrial dispute between the management of Uco Bank, and their workmen, received by the Central Government on 09.09.2019.

[No. L-12012/42/2003-IR(B-II)]

SEEMA BANSAL, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL–CUM- LABOUR COURT, LUCKNOW

PRESENT : RAKESH KUMAR**,** PRESIDING OFFICER

I.D. No. 67/2003

Ref. No. 12012/42/2003-IR (B-II) dated: 11.06.2003

BETWEEN :

Shri Pankaj Kumar Tiwari S/o Late Sh. R.K. Tiwari
Through Sh. A.N. Tripathi, Adhikrit Pratinidhi
23, A.P. Sen Road, Lucknow.

AND

The Regional Manager
UCO Bank, Regional Office
23, Vidhan Sabha Marg
Lucknow – 226001.

AWARD

1. The Government of India, Ministry of Labour vide its order No. Ref. No. 12012/42/2003-IR (B-II) dated: 11.06.2003 referred the present industrial dispute between Shri Pankaj Kumar Tiwari S/o Late Sh. R.K. Tiwari, through Sh. A.N. Tripathi, Adhikrit Pratinishi, 23, A.P. Sen Road, Lucknow and the Regional Manager, UCO Bank,

Regional Office, 23, Vikdhan Sabha Marg, Lucknow for adjudication to this CGIT-cum-Labour Court, Lucknow; and this Tribunal answered the reference order vide its award dated 20.04.2007, notified vide notification dated 03.05.2007. The said award dated 20.04.2007 of this Tribunal had been challenged before, Hon'ble High Court, Lucknow Bench, Lucknow in Writ Peition No. 1246 (MS) of 2008 Pankaj Kumar Tiwari vs Presiding Officer, Central Govt. Industrial Tribunal Cum Labour Court & others; and the Hon'ble High Court, Lucknow vide its order dated 25.04.2017 pleased to set aside the award dated 20.04.2007 of this Tribunal with following observations:

"For the foregoing reasons, writ petition is allowed and the impugned award dated 20.04.2007 passed in I.D. No. 67/2003 is set aside. Central Government Industrial Tribunal –cum- Labour Court, Lucknow is directed to re-hear the matter after giving adequate opportunity to the parties concerned."

2. Accordingly, as per directions of the Hon'ble High Court, the case was restored at its original number and the parties were called upon to submit their case afresh before this Tribunal; however the opposite party refrained to appear before this Tribunal on four consecutive dates i.e. 19.3.2019, 16.04.2019, 14.05.2019 and 13.06.2019; resultantly, the case was heard ex-parte in absence of the representative of the management.

3. The reference under adjudication is:

"Whether the action of the management of UCO Bank, Lucknow in terminating the services of Shri Pankaj Kumar Tiwari S/o Late Sh. R.K. Tiwari, Daily Wage labourer vide oral order dated 01.01.1995 is legal and justified? If not, what relief is the concerned workman entitled to?"

4. The case of the workman, Pankaj Kumar Tiwari, in brief, is that he was engaged as casual worker and worked as such from 17.09.87 to 30.12.94 continuously on daily wage basis with the Naka Hindola Branch of the Bank when his services have been terminated by the Bank through oral order w.e.f. 01.01.1995 without complying with the provisions contained in the Section 25 F & G of the Industrial Disputes Act, 1947. The workman has also submitted that the right of absorption had accrued in accordance with the provisions of circular No. CHO/PAS/16/89 dated 19.10.89; but the management did not do so in spite of the fact that he applied against the said circular; accordingly, the workman has prayed that he be reinstated with consequential benefits.

5. The management of the UCO Bank has controverted the claim of the workman, through its written statement, with submissions that the workman had been engaged as daily wager for petty works i.e. fetching water, sweeping the premises and arrangement of old records for 30 to 40 minutes a day, as and when required; and he had never been appointed nor his services had been terminated in violation to the any of the provisions of the Industrial Disputes Act, 1947; moreover, the workman is not covered with the provision of the circular dated 19.10.89 as it was not meant for the water boys. Accordingly, the management has prayed that the claim of the workman be rejected being devoid of any merit.

6. The workman has filed its rejoinder, reiterating the submissions already made in the statement of claim.

7. The parties filed documentary evidence in support of their respective claim. The workman examined himself; whereas the management examined Sri Ram Janam Vishwakarma, Dy. Chief Officer in support of their case. Parties availed opportunity to cross-examine the witnesses of each other. Heard submissions of learned counsel of the workman only in the absence of authorized representative of the Bank.

8. I have given my thoughtful consideration to the submissions made by the leaned authorized representative of the workman and perused records available on record.

9. The workman has come up with a case that although he worked continuously w.e.f. 17.09.87 to 30.12.94 with the opposite party, Bank even then it did not consider his empanelment in accordance with the provisions of the of circular No. CHO/PAS/16/89 dated 19.10.89 and instead it terminated the services of the workman without any notice or notice pay in lieu thereof in violation to the provisions of Section 25 F & G of the Industrial Disputes Act, 1947. The workman has relied upon:

(i) Bhuvnesh Kumar Dwivedi vs. M/s. Hindalco Industries Ltd. 2014 LAB IC 2643.

10. On the contrary, the management has pleaded that the workman has never been appointed following due procedure of recruitment and was not entitled for empanelment in terms of circular No. CHO/PAS/16/89 dated 19.10.89 as he was a water boy; moreover, no provisions of the Industrial Disputes Act, 1947 has been violated as alleged by the workman.

11. I have scanned entire evidence available on record in light of the rival pleading and respective pleadings of the parties.

12. It is well settled that if a party challenges the legality of an action/order the burden lies upon him to prove illegality of the action/order and if no evidence is produced, the party invoking jurisdiction of the court must fail. In the present case, burden was on the workman to set out the grounds to challenge the validity of the termination order and to

prove that the termination order was illegal. It was the case of the workman that he had worked for more than 240 days in each calendar year. This claim has been denied by the management; therefore, it was for the workman to lead evidence to show that he had in fact worked for 240 days in the year preceding his alleged termination. In Range *Forest Officer vs S.T. Hadimani (2002) 3 SCC 25* Hon'ble Apex Court has observed as under:

> **"It was the case of the claimant that he had so worked but this claim was denied by the appellant. It was then for the claimant to lead evidence to show that he had in fact worked for 240 days in the year preceding his termination. Filing of an affidavit is only his own statement in his favour and that cannot be regarded as sufficient evidence for any court or tribunal to come to the conclusion that a workman had, in fact, worked for 240 days or order or record of appointment or engagement for that period was produced by the workman. On this ground alone, the award is liable to be set aside."**

13. In *Surenderanagar Panchayat and another v. Jethabhai Pitamberbhai 2005 (107) FLR 1145 (SC)* Hon'ble Apex Court came to the conclusion that the workman could be entitled for the protection of section 25 – F of the Industrial Disputes Act, 1947 provided he is successful in establishing the fact that he had been in employment with the employer for a period of 240 days uninterruptedly. It was held by the Hon'ble Supreme Court that in such cases, the scope of the enquiry before the Labour Court was confined only to 12 months preceding the date of termination to decide the question of the continuous service for the purpose of section 25-F of the Industrial Disputes Act, 1947. Further, Hon'ble Apex Court has observed as under:

> ***"The claimant, apart his oral evidence has not produced any proof in the form of receipt of salary or wages for 240 days or record of his appointment or engagement for that year to show that he has worked with the employer for 240 days to get the benefit under section 25-F of the Industrial Disputes Act. It is now well settled that it is for the claimant to lead evidence to show that he in fact worked for 240 days in a year preceding his termination."***

Thus, in order to substantiate the workman has filed number of photocopy of the documents, less any appointment letter or termination order; rather it has been pleaded that no appointment letter was given to him; likewise his services have been termination orally. The workman has not filed any document which could show that that he worked for 240 days in the proceedings twelve months from the date of his alleged termination on 01.01.1995. The workman has filed photocopy of certificate dated 03.11.1990, paper No. 24/1, which goes to show that the workman had been working with the Bank as a daily wager, no duration of working is mentioned the said certificate. Apart from above certificate, the workman has filed photocopy of papers regarding his empanelment in connection with the circular No. CHO/PAS/16/89 dated 19.10.89, which has no details regarding working of the workman with the Bank. Moreover, the Bank has filed working details of the workman with the bank, paper No. C/34 to 35/3, which goes to show that the workman did not work in year 1994 & 1995. Thus, the certificate of working or other working details filed by the management is of no help for the workman to substantiate his claim that he worked for 240 days in the year preceding the date of alleged termination.

14. Admittedly no appointment letter was issued; and also, there is no evidence of the workman that the Branch Manager of the Bank was competent to appoint any one in capacity of sub-staff. The working certificate filed by the workman or details of working filed by the management does not show that the workman actually worked for 240 days in a year preceding the date of termination i.e. 01.01.1995. Thus, the workman has utterly failed to discharge the burden that lied upon him and has failed to substantiate his pleading by cogent documentary evidence that he was actually in the services of the management of UCO Bank and he worked for 240 days during period 01.01.1994 to 31.12.2014 i.e. one year preceding the date of his termination; and his services were terminated in violation of Section 25 of the I.D. Act, 2005, without giving him any notice or notice pay in lieu thereof or any retrenchment compensation.

15. Mere pleadings are no substitute for proof. Initial burden of establishing the fact of continuous work for 240 days in a year is on the workman but he has failed to discharge the same. There is no reliable material for recording findings that the workman had worked for more than 240 days in the preceding year from the date of his alleged termination and the alleged unjust or illegal order of termination was passed by the management.

16. Apart from above the workman has pleaded that the management did not consider his case for empanelment as per provisions of the circular No. CHO/PAS/16/89 dated 19.10.89. In this regard, the appropriate Government has referred the dispute of alleged illegal termination of the workman and the issue of non-consideration of empanelment as per provisions of the circular No. CHO/PAS/16/89 dated 19.10.89 does not find its reference in the schedule of reference.

Hon'ble Rajasthan High Court in the case of *the Management, M/s. Rambagh Palace Hotel Ltd. V. State of Rajasthan 2000 (86) FLR 134* observed as under:

> ***"It is settled law that the Industrial Tribunal can only adjudicate the reference made to it by the Government and cannot substitute its own reference or terms of reference or even cannot go beyond the terms of the reference. It is the function of the Tribunal to answer the reference as is referred to and once the reference***

has been made on the demand made by the workers/union, it is incumbent on the Labour Court or Industrial Tribunal to decide the same……"

In *Tarsem Singh vs. Judge, Labour Court & others 2008 (116) FLR 346,* it was held as under:

"8. The Labour Court cannot enlarge the scope of reference nor can it deviate therefrom. It may be observed that the Labour that the Labour Court derives its jurisdiction from the reference made by the appropriate government and, therefore, it is bound to act within the four corners of the reference.

Hon'ble Supreme Court, in the case of *State Bank of Bikaner and Jaipur vs. Om Prakash Sharma 2006 (109)FLR 1203* laid bare the well settled proposition of law and, in the context, categorically held as follows:

"In the instant case, the award of the Labour Court suffers from an illegality, which appears on the face of the record. The jurisdiction of the Labour Court emanated from the order of the reference. It could not have passed an order going beyond the terms of reference. While passing the award, if the Labour Court exceeds its jurisdiction, the award must be held to the suffering from a jurisdictional error. It was capable of being corrected by the High Court in exercise of its power of judicial review. He High Court, therefore, clearly fell in error in refusing to exercise its jurisdiction. The award and the judgment of the High Court, therefore, cannot be sustained …….. "

Hon'ble Apex Court in *Bhogpur cooperative Sugar Mills Ltd. vs. Harmesh Kumar (2008) 2 SCC (L&S) 128* observed as under:

"The Labour Court derived its jurisdiction from the terms in reference. It ought to have exercised its jurisdiction within the four corners thereof."

Hon'ble Apex Court in the case of *Osshiar Prasad & others vs Employers in Relation to Management of Sudamdih Coal Washery of M/s. BCCL, Dhanbad 2015 (144) FLR 830* observed as under:

"25. It is thus clear that the appropriate Government is empowered to make a reference under section 10 of the Act only when "Industrial dispute exists" or "is apprehended between the parties". Similarly, it is also clear that the Tribunal while answering the reference has to confine its inquiry to the question(s) referred and has no jurisdiction to travel beyond the question(s) or/and the terms of the reference while answering the reference. A fortiori, no inquiry can be made on those questions, which are not specifically referred to the Tribunal while answering the reference.

17. Thus, from the facts and circumstances of the case, terms of reference and law cited hereinabove, I am of considered opinion that the workman has pleaded beyond the schedule and has failed to prove his case, in accordance with the terms of reference; and this Tribunal cannot travel beyond the terms of reference.

18. Accordingly, in view of the facts and circumstances of the case, law cited hereinabove, and discussions made in foregoing paragraphs, I am of considered opinion that the workman is not entitled to any relief.

19. The reference under adjudication, is answered accordingly.

20. Award as above.

LUCKNOW

23rd July, 2019

RAKESH KUMAR, Presiding Officer

Uploaded by Dte. of Printing at Government of India Press, Ring Road, Mayapuri, New Delhi-110064
and Published by the Controller of Publications, Delhi-110054.